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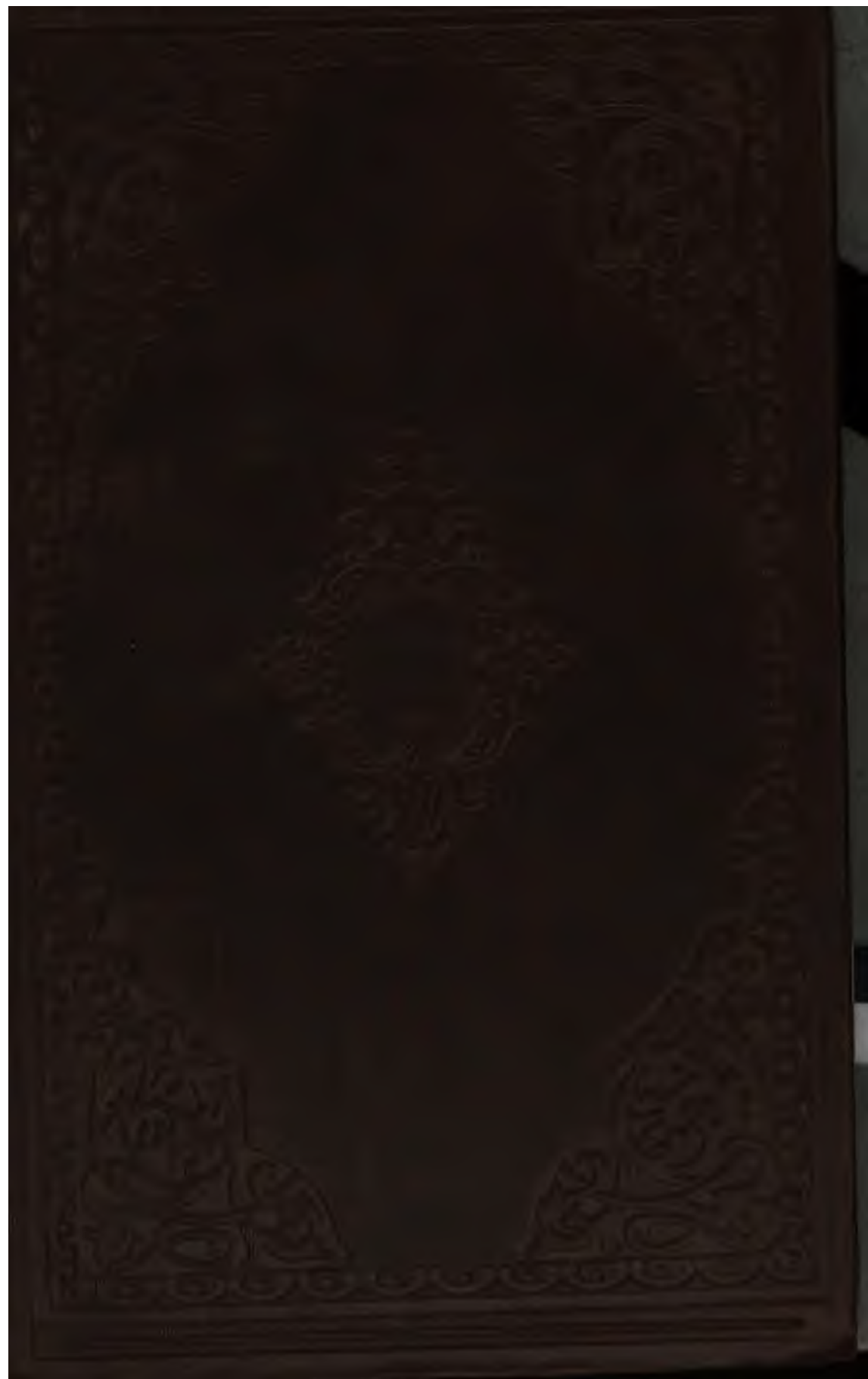
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THE
BENCH AND BAR
OF
GEORGIA:
MEMOIRS AND SKETCHES.

With an Appendix,

CONTAINING A COURT ROLL FROM 1790 TO 1857, ETC.

BY
STEPHEN F. MILLER.

VOLUME II.

PHILADELPHIA:
J. B. LIPPINCOTT & CO.
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THE
BENCH AND BAR OF GEORGIA.

XV.

JOHN FORSYTH.

AMONG the sons of fame who seem to be endowed above the ordinary lot of men—who dazzle by their gifts and leave proud memories behind—the name of JOHN FORSYTH is entitled to the highest rank.

He was born in Frederick county, Virginia, about the year 1781. His father* removed to Georgia four years afterward. When old enough to study the classics, John Forsyth was placed in the academy under charge of the Rev. Mr. Springer, in Wilkes county. Thence he went to Princeton College, where he graduated in 1799. After a course of legal study with Mr. Noel, of Augusta, he was admitted to the bar in 1802. His success was rapid. In 1808 he was elected attorney-general, and at the end of the term, in 1811, became a candidate for Congress to fill a vacancy. He failed against his competitor, William Barnett, who was also a candidate for the first time; but, in 1812, Mr. Forsyth was elected for the regular term, and gave efficient support to Mr. Madison's administration. He remained in the House of Representatives until his election to the Senate of the United States in 1818. His career was onward and upward. Honors poured upon him.

As Mr. Forsyth's name has a diplomatic connection with the Florida treaty, a few remarks will explain. On the 22d February, 1819, the Spanish Minister at Washington and Mr. Adams, the Secretary of State, concluded a treaty of limits and indemnity,—Spain ceding Florida to the United States, and the latter ceding

* United States Marshal for the District of Georgia. Was killed by the Rev. Beverly Allen while attempting to execute process. See the account given by Gov. Gilmer in his book, "Georgians," p. 135.

to Spain all claims to territory west of the Sabine. The subject had been under discussion between the two Governments for a long time. Several topics were pressed into it, among which were the losses sustained by citizens of the United States from Spanish cruisers more than twenty years before, which had been acknowledged by the Spanish Government in 1802. By the Treaty of 1819, the United States agreed to pay five millions of dollars as an equivalent to Spain for the value of territory exchanged, to be applied in satisfaction of these losses. Thus far all appeared to be easily understood. The following is the 8th article:*

All the grants of land made before the 24th of January, 1818, by his Catholic majesty, or by his lawful authorities, in the said territories ceded by his majesty to the United States, *shall be ratified and confirmed to the persons in possession of the land*, to the same extent that the same grants would be valid if the territories had remained under the dominion of his Catholic majesty. But the owners in possession of such lands, who by reason of the recent circumstances of the Spanish nation and the revolutions in Europe have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited in the same, respectively, from the date of the treaty; in default of which the said grants shall be null and void. All grants made since the 24th of January, 1818, when the first proposal on the part of his Catholic majesty for the cession of the Floridas was made, are hereby declared to be null and void.

President Monroe laid the treaty before the Senate on the 27th of February, 1819, and it was ratified with a declaration annexed respecting the grants of lands under the 8th article. There is no question that millions of acres of the best lands in Florida had been granted so as to deprive the United States of eminent domain, which it was sought to cover by this clause of the treaty. The Spanish Government withheld its ratification of the treaty for such a length of time that the President thus referred to it in his message of December 7, 1819:—

Anxious to prevent any future disagreement with Spain, by giving the most prompt effect to the treaty which had been thus concluded, and particularly by the establishment of a government in Florida which should

* A large amount of litigation arose on claims springing out of the 8th article of the treaty, as may be seen by the records of the Supreme Court of the United States. See *United States vs. Arredondo*, 6 Peters's Rep. 691; *U. S. vs. Percheman*, 7 ib. 51; *U. S. vs. Clarke*, 8 ib. 436; *U. S. vs. Clarke*, 9 ib. 168; *U. S. vs. Sibbald*, 10 ib. 318; *U. S. vs. Kingsley*, 12 ib. 476; *U. S. vs. Wiggins*, 14 ib. 334; *U. S. vs. Delespine*, 15 ib. 226; *U. S. vs. Miranda*, 16 ib. 153; *U. S. vs. Acosta*, 17 ib. 16; *U. S. vs. Acosta*, 1 Howard, 24; *Chaires vs. United States*, 3 ib. 611; *U. S. vs. Lawton*, 5 ib. 10.

preserve order there, the Minister [John Forsyth] of the United States who had been recently appointed to his Catholic majesty, and to whom the ratification by his Government had been committed, to be exchanged for that of Spain, was instructed to transmit the latter to the Department of State as soon as obtained, by a public ship, subjected to his order for the purpose. Unexpected delay occurring in the ratification by Spain, he requested to be informed of the cause. It was stated in reply that the great importance of the subject, and a desire to obtain explanations on certain points which were not specified, had produced the delay, and that an envoy would be despatched to the United States to obtain such explanations of this Government. The Minister of the United States offered to give a full explanation on any point on which it might be desired,—which proposal was declined. Having communicated this result to the Department of State in August last, he was instructed, notwithstanding the surprise and disappointment which it produced, to inform the Government of Spain that if the treaty should be ratified and transmitted here at any time before the meeting of Congress, it would be received and have the same effect as if it had been ratified in due time. This order was executed, the authorized communication was made to the Government of Spain, and by its answer, which has just been received, we are officially made acquainted for the first time with the causes which have prevented the ratification of the treaty by his Catholic majesty. It is alleged by the Minister of Spain that this Government had attempted to alter one of the principal articles of the treaty by a declaration which the Minister of the United States had been ordered to present when he should deliver the ratification by his Government in exchange for that of Spain, and of which he gave notice, explanatory of the sense in which that article was understood. It is further alleged that this Government had recently tolerated or protected an expedition from the United States against the province of Texas. These two imputed acts are stated as the reasons which have induced his Catholic majesty to withhold his ratification from the treaty, to obtain explanations respecting which it is repeated that an envoy would be forthwith despatched to the United States. How far these allegations will justify the conduct of the Government of Spain will appear on a view of the following facts, and the evidence which supports them.

It will be seen by the documents transmitted herewith that the declaration mentioned relates to a clause in the eighth article, concerning certain grants of land recently made by his Catholic majesty in Florida, which, it was understood, had conveyed all the lands which till then had been ungranted. It was the intention of these parties to annul these latter grants, and that clause was drawn for that express purpose and for no other. The date of these grants was unknown, but it was understood to be posterior to that inserted in the article. Indeed, it must be obvious to all that, if that provision in the treaty had not the effect of annulling these grants, it would be altogether nugatory. Immediately after the treaty was concluded and ratified by this Government, an intimation was received that these grants were of anterior date to that fixed on by the treaty, and that they would not, of course, be affected by it. The mere possibility of such a case, so inconsistent with the intention of the parties and the meaning of the article, induced this Government to demand an explanation on the subject, which was immediately granted, and which corresponds with this statement. With respect to the other act alleged, that this

Government tolerated or protected an expedition against Texas, it is utterly without foundation.

* * * * *

In the course which the Spanish Government have on this occasion thought proper to pursue, it is satisfactory to know that they have not been countenanced by any European power: on the contrary, the opinion and wishes both of France and Great Britain have not been withheld either from the United States or from Spain, and have been unequivocal in favor of the ratification. There is also reason to believe that the sentiments of the Imperial Government of Russia have been the same, and that they also have been made known to the Cabinet of Madrid.

In his message to Congress, November 14, 1820, referring to the delay in the ratification of the treaty by Spain, the President said:—

By letters from the Minister of the United States to the Secretary of State, it appears that a communication in conformity with his instructions had been made to the Government of Spain, and that the Cortes had the subject under consideration. The result of the deliberations of that body, which is daily expected, will be made known to Congress as soon as it is received. The friendly sentiment which was expressed on the part of the United States, in the message of the 9th May last, is still entertained for Spain. Among the causes of regret, however, which are inseparable from the delay attending this transaction, it is proper to state that satisfactory information has been received that measures have been recently adopted by designing persons to convert certain ports of the province of East Florida into depôts for the reception of foreign goods, from whence to smuggle them into the United States. By opening a port within the limits of Florida, immediately on our boundary where there was no settlement, the object could not be misunderstood. An early accommodation of differences will, it is hoped, prevent all such fraudulent and pernicious practices, and place the relations of the two countries on a very amicable and permanent basis.

The President again adverts to the subject in his message of December 3, 1821, from which the following paragraph is extracted:—

With Spain, the treaty of February 22, 1819, has been partly carried into execution. Possession of East and West Florida has been given to the United States; but the officers charged with that service by an order from his Catholic majesty delivered to the Secretary of State and transmitted by a special agent to the Captain-General of Cuba, and in whom the government of these provinces was vested, have not only omitted, in contravention of the order of their sovereign, the performance of the express stipulation to deliver over the archives and documents relating to the property and sovereignty of these provinces,—all of which it was expected would have been delivered either before or when the troops were withdrawn,—but defeated every effort of the United States to obtain them, especially those of the greatest importance. This omission has

given rise to several incidents of a painful nature,* the character of which will be fully disclosed by the documents which will be hereafter communicated.

These transactions indicate the necessity of great address on the part of Mr. Forsyth to manage the court of Spain. His official correspondence, embracing a period of four years of negotiation more or less intricate, forms a luminous chapter in the archives of the State Department, and in the large quarto volumes of diplomatic history published by order of Congress. He was truly a courtier of finished mould. His person, temper, qualifications, all fitted him for the place, and faithfully did he act his part. All questions of controversy being adjusted with Spain, Mr. Forsyth returned home to enjoy the gratifying compliment paid him by the people of Georgia in electing him to Congress during his absence abroad. He again took his seat in the House of Representatives at the session of 1823, where he remained until he resigned in 1827.

The treaty concluded at the Indian Springs, on the 12th day of February, 1825, by which the Creek Nation ceded their rights of occupancy west of Flint River, gave rise to the celebrated contest between the President of the United States and the Executive of Georgia, in regard to the immediate survey and distribution of the lands acquired under the treaty. To carry into effect his measures, Gov. Troup convened the Legislature in May, 1825. In his message he pays the following tribute to Mr. Forsyth and his colleagues :—

The delegation in Congress, always faithful to their trust, have seconded by active and incessant labor the measures taken by this Government to support not only this important right, but all other rights and interests of the State; and, in the delicate and critical relations which these involved, have so deported themselves as to command the confidence of ourselves and the respect of all who know them.

Among the documents accompanying the Governor's message of May 23, 1825, were the following :—

GEORGETOWN, March 24, 1825.

SIR :—I have the honor to enclose to you the copy of a letter written to the Secretary of War since the adjournment of Congress on the subject

* Allusion is here doubtless made to the energetic measures adopted by General Jackson, the first Governor of Florida after its cession to the United States. He demanded of the Spanish Governor all the public archives and records which related to land-titles in the province. On his refusal to give them up, General Jackson had him committed to prison, where he remained until the documents were forthcoming.

of the execution of the recent treaty with the Creek Indians, and the formation of a treaty with the Cherokees for the complete fulfilment of the obligations of the United States to the State of Georgia under the compact of 1802, and his answer, and several papers marked A, B, and C, received with it. As I hope to have soon a personal conference with you on this subject, I forbear to make any remarks upon the correspondence enclosed.

I am, with perfect respect, your obedient servant,

JOHN FORSYTH.

His Excellency G. M. TROUP.

MR. FORSYTH TO THE SECRETARY OF WAR.

GEORGETOWN, March 9, 1825.

SIR:—By the request of Governor Troup, I had the honor this morning to ask the attention of the President to the claims of the State of Georgia upon the United States under the compact of 1802. The President desired that I should address myself to you, that the suggestions made on the part of the State might be fully considered. Complying with this desire, I invite your attention, first, to the execution of the treaty lately concluded at the Indian Springs, and, secondly, to the formation of a new treaty with the Cherokees.

By the 8th article of the treaty of the Indian Springs, the Creeks must remove from the land occupied by them prior to the first of September, 1826. To cover the first payments due under this treaty, and to provide a fund for the purchase of a permanent residence for the Creeks beyond the Mississippi, a contingent appropriation of \$250,000 has been made by Congress. The interest and convenience of Georgia will be best consulted by an immediate removal of the Indians, and no doubt is entertained that the necessary measures will be immediately taken for that purpose. The conduct of the Creek Agent, who has spared no pains to prevent the formation and ratification of the treaty, justifies an apprehension that he will not fail to obstruct as far as in his power the accomplishment of the wishes of the State. Under this conviction, a request that the conduct of the Agent may be watched, and that no confidence shall be reposed in him that can be consistently withheld, is dictated by the interests of Georgia, the wishes of the Creek tribe, and the honor of the General Government. While anxious that no artifices shall be used to prevent an early removal of the Indians, I pray you to be assured that we have no desire that the Creeks should suffer for our accommodation. We shall complain of no delays that are necessary for their comfort on their journey, and to their permanent security and prosperity in their new homes.

As to the formation of a treaty with the Cherokees, the present moment appears to be peculiarly favorable for a complete performance of the obligations of the compact of 1802. Nothing remains to the accomplishment of these objects but to induce the Cherokees to remove from the lands occupied by them within the limits of Georgia. A number of the Cherokee chiefs, the most influential in the nation, are in Washington. The recent determination of the Creeks to go to the West, in spite of the persuasions and artifices of the Cherokees, must have satisfied the latter that the United States will sooner or later *insist* upon the surrender of the lands in Georgia to that State. Once convinced that their title to the land *must* be extinguished, it will be easy to satisfy them that their own interest will be most effectually consulted by an immediate arrangement.

The records of the War Department show that many of the Cherokees, since 1819, have continued to express a desire to go beyond the Mississippi, and have complained of the injustice of their chiefs who deprived them, by the treaty of that year, of the privilege of selling their lands for that purpose. In 1821, the Path-killer applied through Gen. Jackson to Government to purchase his claims. My own opinion is that the President may, without injustice to the Indians, without violating either principle or usage, cause a purchase to be made of the Cherokees residing in Georgia of the lands lying in Georgia. Without attempting to demonstrate the soundness of this opinion, I suggest, with great deference, that if the Cherokees are found now unwilling to treat, their unwillingness would be promptly overcome if they were informed that the President would, if the whole tribe could not be induced to treat, take into serious consideration the proposals made by the Path-killer, and any other proposals which may be hereafter made by all or any portion of the Cherokees in Georgia, for the sale of the lands they may occupy lying within the limits of that State.

With the hope that a new effort with the Cherokees will have as fortunate a termination as the recent effort with the Creeks, I have the honor to be,

Sir, with great respect, your obedient servant,

JOHN FORSYTH.

Hon. JAMES BARBOUR,
Secretary of War.

MR. BARBOUR TO MR. FORSYTH.

DEPARTMENT OF WAR, March 23, 1825.

SIR :—I have the honor to acknowledge the receipt of your letter of the 9th inst., conveying the information that you had, by the request of Gov. Troup, asked the attention of the President to the claims of the State of Georgia upon the United States under the compact of 1802, and the desire of the President that you should address yourself to me, that the suggestions made on the part of the State might be duly considered; also, and in compliance with this desire, inviting my attention, first, to the execution of the treaty concluded with the Creeks at the Indian Springs, and, secondly, to the formation of a new treaty with the Cherokees.

The treaty of the Indian Springs, having been ratified, will be carried into effect, measures having been already taken in conformity to its provisions.

Upon the second subject referred to in yours, I have the honor to state in reply that the President, as well from inclination as a sense of duty, is disposed to carry into effect the conditions of the compact with Georgia whenever that can be done consistently with its provisions. In this spirit, and in conformity to your suggestion, a letter was addressed from the Department to the delegation of the Cherokees in this place, a copy of which, marked A, is herewith enclosed; also a copy of their answer, marked B, to which is added a copy of a communication marked C, addressed by the Cherokee chiefs to the President. You will readily perceive from this correspondence the determined opposition of the Cherokees at this time to the cession of their lands.

I am directed by the President to state that he entirely accords in the policy recommended by Mr. Monroe to Congress at their last session on

the subject of the general removal of the Indians to the west of the Mississippi,—a policy believed to be alike advantageous to the citizens of the United States in their neighborhood and the Indians themselves. This object, as far as lies within the sphere of his power, will be promoted, and, on every suitable occasion, its beneficent effects will be particularly inculcated on the Cherokee Nation.

I have the honor to be, very respectfully, your obedient servant,
JAMES BARBOUR.

Hon. JOHN FORSYTH.

(A.)—MR. MCKENNEY TO THE CHEROKEE CHIEFS.

DEPARTMENT OF WAR, OFFICE OF INDIAN AFFAIRS, March 12, 1825.

To John Ross, George Lowrey, and Elijah Hicks, Cherokee Delegation.

FRIENDS AND BROTHERS:—I am directed by the Secretary of War to inquire if you have authority to negotiate with the Government for a sale of your lands, and especially for that portion of them lying within the limits of Georgia.

I am, respectfully, your friend and brother,
THOMAS L. MCKENNEY.

(B.)—EXTRACT FROM THE REPLY OF THE CHEROKEE DELEGATION.

WASHINGTON, March 14, 1825.

Yours of the 12th inst. is received. You state that you are directed by the Secretary of War to inquire if we have authority to negotiate with the Government for a sale of our lands, and especially for that portion of them lying within the limits of Georgia. It would seem from the inquiry that the Secretary of War is impressed with the belief that our nation may be disposed to make a cession of our lands, and that we as its representatives may have been instructed accordingly. In order that the Secretary of War may have full information of the true sentiments and disposition of our nation, we would refer him to the communication which we had the honor to address to the Hon. John C. Calhoun on the 11th February, 1824, in reply to certain propositions made by the President, through him, to us for our lands. We have full authority for saying that those sentiments remain the same, and are unchangeable.

(C.)—TO HIS EXCELLENCY JOHN Q. ADAMS, PRESIDENT OF THE UNITED STATES.

RESPECTED SIR:—Be pleased to accept our congratulation for the great trust confided to your care as President of the United States. The various tribes of Indians emphatically call the President *father*, and to him they, as children, look for protection and preservation. Therefore we consider it a duty as well as a privilege to address you.

A retrospective view of the history and true causes in the downfall, degradation, and extinction of certain tribes exhibits a solemn and imposing lesson, which may be profitable in administering justice to those few who at this day breathe the vital air on the land of their fathers. The crisis seems to be at hand which must forever seal their doom. Civilization and preservation, or dispersion and extinction, awaits them, and this Government is the tribunal which must pass the sentence.

We therefore solicit your attention to a few remarks which we believe it to be our implicit duty to make in relation to the Cherokee people whom we represent. The arts of civilized life have been successfully introduced among them: they consider themselves permanently settled, and no inducement can ever prompt them to abandon their habitations for a distant, wild, and strange clime. They are well aware of the earnest solicitude of the State of Georgia for their removal, and also are apprized of the desire of the Government to gratify the wishes of Georgia, if their consent could be obtained. And, whilst the Cherokees are ever ready to comply with the views and wishes of the Government, they cannot consent to yield another foot of land. Unceasing exertions have from time to time been used to purchase from the Cherokees their lands in Georgia; but we have never as yet witnessed a single attempt made on the part of the Government to bring the compact of 1802 with Georgia to a close by compromise, or in any manner other than by trying to purchase our lands. For the peace and tranquillity of our nation do we sincerely hope that measures may be adopted by the United States and the State of Georgia, so as to close their compact without teasing the Cherokees any more for the lands. The Cherokees have repeatedly declared their sentiments respecting their lands to the Government: those sentiments have been matured in soberness and expressed in sincerity.

The idea of concentrating the various tribes of Indians for the object of civilizing and preserving them west of the Mississippi is a subject of great magnitude, and may perhaps contribute to better the condition of those tribes who have been removed from their lands and are now wandering over the wild and extended plains of the West. But if Indian civilization and preservation is sincerely desired, and is considered worthy the serious attention of the United States, never urge the removal of those tribes who are now successfully embracing the habits of civilized man within their own limits. A removal of the Cherokees can never be effected with their consent; consequently, if removed at all, it must be effected by such means as would engender irreconcilable prejudices, and their dispersion and ultimate extinction would inevitably follow. The Cherokees if permitted to remain peaceably and quietly in the enjoyment of their rights, the day would arrive when a distinction between their race and the American family would be imperceptible: to such a change the nation can have no objection. Complexion is a subject not worthy consideration in the effectuation of this great object. For the sake of civilization and preservation of existence, we would willingly see the habits and customs of the aboriginal man extinguished. The sooner this takes place, the great stumbling-block of *prejudice* will be removed.

May the power of Heaven direct your steps for the good of all under your administration, is the sincere prayer of,

Sir, your unworthy but most obedient servants,

JOHN ROSS,
GEO. LOWREY,
ELIJAH HICKS.

WASHINGTON CITY, March 12, 1825.

GOV. TROUP TO MR. FORSYTH.

EXECUTIVE DEPARTMENT, GEORGIA, MILLEDGEVILLE, April 6, 1825.

SIR:—Your letter of the 24th ult., covering a correspondence between yourself and the Secretary of War, and other papers connected with the

fulfilment of the stipulations of the articles of agreement and cession, was received yesterday. Accept my thanks for your unremitted attention to the interest of the State: they are due from the people to you and the rest of the delegation for your generous and patriotic devotion to their rights, and for the firmness and dignity with which on every occasion you have supported them.

On the opening of a new administration of the General Government, soon after an important concession had been made to our just demands, it is scarcely necessary to inform you how eagerly I sought repose from the painful altercation which it had been my imperious duty to wage with the constituted authorities of the Union, and with how much of hope and anxiety I looked forward to the future, trusting that in better and improved relations we would find a kindly and conciliatory spirit succeed to troubled feelings,—the sense of wrong on either side consigned to forgetfulness, and the claims of Georgia recognised in all the extent which reason, justice, and good faith would warrant. I trust that for these more has not been asked,—that less will not be received.

It cannot be dissembled, however, that in the answer given by the Secretary of War to your communication of the 9th ult., presupposing the best disposition to do right, a course of policy is indicated which must infallibly terminate in wrong. It is of kindred spirit with that which for a time kept us in abeyance with the Creeks and held the State suspended between the most fearful alternatives. On the 12th of March, the delegation of Cherokees at Washington laid before the President their customary annual protest against a cession of lands on any terms, now or hereafter. On the same day they are asked, by order of the Secretary of War, if they will sell lands. They answer no; and this answer is echoed by the Secretary of War to you. I hope it is not considered, as it purports to be, *final*. Should the proposition be renewed, another and a very different character must be given to it. The Cherokees must be told in plain language that the lands they occupy belong to Georgia; that sooner or later the Georgians must have them; that every day—nay, every hour—of postponement of the rights of Georgia makes the more strongly for Georgia, and against both the United States and the Cherokees. Why conceal from this misguided race the destiny which is *fixed* and *unchangeable*? Why conceal from them the fact that every advance in the improvement of the country is to inure to the benefit of Georgia,—that every fixture will pass with the soil into our hands, sooner or later, for which the United States must pay an equivalent, or not, to the Indians, according to their discretion? The United States are bound, in justice to themselves, instantly to arrest the progress of improvement in the Cherokee country. It is the reason constantly assigned by the Cherokees for their refusal to abandon the country. The force of the argument, therefore, if good now, increases with the progress of improvement; the progress of improvement will be accelerated by the irresistible force of the argument.

Thus, by a double ratio of geometrical progression known only to the logicians of modern times, Georgia will find herself in a predicament in which, whatever may have been the aggravation of her wrongs, she never before stood,—disseized of both the argument and the lands. Why not, therefore, in common honesty and plain dealing, say to the Indians, Remove now, or stay the hand of improvement forever. Now we will give you the full value of improvement; hereafter we will give nothing, because we cannot afford to pay for improvements from which no benefit

will result to us, which will belong to the Georgians, and which you were forewarned in good time not to make. Let them say, Now is the appointed time. We offer you acre for acre, and we change your tenancy at will into a fee-simple which will descend to your posterity forever. If you accept, well and good; if you refuse, we are not bound to make the same offer again. You were once without a country; you sought refuge among the Creeks: they received you with open arms, and gave you the lands you now occupy. Take care that you are not without a country again: you may find no more Creeks, no more lands.

Is it to be conceived that such an argument would be wasted on the Cherokees? What motive would be left to them to continue in a state so precarious, when—every incentive to human industry being destroyed, the barn, the dwelling, the out-houses, the farms, falling into decay and ruin—the wretched Indian scatters upon an impoverished and exhausted soil the seed from which it is even doubtful if he is permitted by the impatient white man to reap the scanty harvest?

Is it forbidden to speak the language of truth and friendship? It may be that all will avail nothing. If all should, it will be because the Cherokees distrust the sincerity of the United States. That they have reason for distrust, even in the conduct of the United States toward them, is undoubted. When they were willing to cede lands the United States would not take them. In the conduct of the United States toward the Creeks they think they see abundant proof of the lukewarmness and indifference of the General Government in carrying into practical effect, so far as concerns Georgia, the plans which they devised for the removal of the Indians. It is of no consequence that the Indians are deceived by appearances: the appearances would deceive anybody. They see the Agent for the Creeks, well knowing the officially-expressed will of the Government, opposing himself to that will, holding councils of the Indians for the very purpose of anticipating and forestalling the Commissioners of the United States by inconsiderate and violent resolves, the same as those of the Cherokees themselves.

When the treaty is holden at Broken Arrow, the Cherokees are present by their emissaries under the eye of the Agent, busied to defeat, by the most wily machinations and contrivances, the objects of the treaty. They witness the failure of the treaty, and by these means. Is such a case explicable before the Indians,—the servant setting at naught the will of the master, and the master countenancing the servant in defying that will? The Government itself, when asked for the resolution of these mysterious things, resolves them into a misconception of duty.

On the renewal of the treaty at the Indian Springs, the like scenes are presented to both whites and Indians. The Agent—professedly aiding the Commissioners, secretly undermining them, dismissing in the dead of night the chiefs who had agreed to sign the treaty, protesting the treaty after having affixed his own signature to it as a witness, on the ground that those very same chiefs did not subscribe to it, announcing to his Government that the treaty was in direct violation of its own instructions, insinuating very strongly that improper means had been adopted to procure it, and denouncing the hostility of the Indians in the event of its ratification.

The poor Cherokees knew as well as the most enlightened member of the Cabinet, that, if a foreign minister of the first grade had dared the one-half of this, he would have been dismissed with disgrace. Yet the

Agent, opposing himself to his Government, as it would seem,—certainly opposing himself to the Commissioners appointed by that Government,—passing on to Washington for the avowed purpose of preventing the ratification of the treaty, meets a cordial greeting of his employers there; and when the President, discrediting every word of the Agent, had submitted the treaty to the Senate,—when the Senate, in like manner trusting nothing to the Agent, and reposing confidence in the declarations of the Commissioners, had ratified it,—he is permitted to depart for his Agency, if not with new demonstrations of affection, without, so far as I know, the slightest reprehension or blame. And, what is more than all, after having placed himself at the head of a party adverse to that which is now dominant, and which had recently ceded the country to us, he is appointed the guardian of the whole,—to conduct to their new and distant home this hapless race, to command their destinies through untried and checkered scenes, and to make his distance from the controlling power an absolute surety against all scrutiny and responsibility.

The only apology attempted by the Agent, for any allegation of misconduct or aberration from duty in these respects, has been,—'Twas not I, 'twas the sub-Agent: 'Twas not I, 'twas the interpreter. The United States might possibly be the voluntary dupe of such shallow pretences,—certainly not the Cherokees or the Georgians. Ask the Commissioners if, but for the interference of the Agent, there would have been any serious difficulty at Broken Arrow? Ask them if, at the Indian Springs, an almost unanimous concurrence of the chiefs might not have been commanded, but for the counterplots and underworking of the Agent? Ask any member of the Cabinet, notwithstanding the passage of resolves and protestations to the contrary, if he may not command a treaty on a given day, upon just and reasonable terms, for a cession of all the lands claimed by the Cherokees?

Be pleased to present a copy of this note to the Secretary of War. Upon the general subject every thing has been heretofore said which it was proper or becoming to say; and I had resolved not to resume it unless invited on the part of the Federal Government or commanded by the Legislature of the State. The more recent events may not have been portrayed before the present Cabinet in the same light in which you and myself cannot fail to regard them. The gentlemen who have recently come into it I know personally, and will be very much deceived if they are not deserving our highest confidence as intelligent, upright, and patriotic men. If they understand this matter correctly, they will see that it is not a question about some five or six millions of acres of land: it is one of principle and of character, connected with the honor of the Government, and therefore above all price.

The people of the United States, content with their political institutions, ask nothing of their rulers but purity in the administration of their affairs, disinterestedness, singleness of purpose for the public weal, sincerity and plain dealing on the part of all the functionaries, from the highest to the lowest, fidelity to every trust, and strict accountability in the fulfilment of every duty, to the exclusion of selfishness, intrigues, tricks, and devices of low cunning to gratify party passions and subserve sordid interests. Hucksterings and barterings, and all the rest, they will cheerfully leave to the mountebanks and jugglers to whom they appropriately belong.

With great consideration and respect, G. M. TROUP.

Hon. JOHN FORSYTH.

This correspondence is worthy of lasting preservation and frequent perusal, to bring up the issue involved, the manner in which it was sustained by the Chief-Magistrate of Georgia, and by Mr. Forsyth, one of his main supporters in Congress. The letter of Gov. Troup last given ably sums up the whole question.

Of the perils which clustered in the path of Gov. Troup, and the intrepidity with which he defied them,—his letter to the President demanding the arrest of Major-General Gaines, of the United States army, his closing the commission of Col. Timothy Pickering Andrews, the special Agent, and the whole series of heroic deeds in this great State-Rights campaign,—nothing more need be said than that he triumphed over all factions at home, over the wisdom of President Adams, and the valor of his military representative.

As the second term for which Gov. Troup was elected was drawing to a close, and he declining a re-election, Mr. Forsyth was presented by the party as the most suitable man to succeed him. The competitor agreed upon by the Clark party (nominating-conventions were not in vogue then) was the Hon. Matthew Talbot, who, as President of the Senate, discharged executive functions a short time on the death of Gov. Rabun in 1819. He was an estimable man, but died on the 17th day of September, 1827, about two weeks before the election. No other candidate was formally brought forward to oppose Mr. Forsyth, who received 22,220 votes, and the "scattering" count was 9072.

The author was present in the gallery of the Representative-Chamber when Mr. Forsyth delivered his inaugural address and took the oath of office, in November, 1827. He well remembers the graceful allusion the Governor elect made to his "fortunate and respected predecessor," the great Troup, who sat behind him in the Speaker's chair. A large concourse, including quite an array of beauty and fashion, witnessed the ceremony, all admiring and praising the new Governor: at least, his political friends appeared to rejoice.

It will be perceived that Gov. Forsyth soon brought before the Legislature the project of a code to embrace the common as well as the statute law in force in Georgia.

(Journal of the Senate, p. 49.)

The following communication was received from his Excellency the Governor, by Mr. Pierce, his Secretary.

EXECUTIVE DEPARTMENT, GEORGIA, MILLEDGEVILLE, Nov. 12, 1827.

The 18th section of the third article of the Constitution provides "that within five years after the adoption of the Constitution, the body of our law, civil and criminal, shall be revised, digested, and arranged

under proper heads, and promulgated in such manner as the Legislature may direct." To carry into effect this section of the Constitution, an act was passed by the General Assembly, on the 6th day of December, 1799. Other acts having relation to the subject have been subsequently passed. One—the act of the 12th December, 1809—is of permanent operation, and requires the compilation and publication of a digest of the laws of every ten years, at the successive termination of that period of time. Different digests, now in common use throughout the State, have been compiled and published under the authority of these acts. The terms used in these acts, and the contents of the several digests published, which have been approved as if properly executed according to the intentions of the several Legislatures by whom the acts were passed, demonstrate that the part of the Constitution quoted was construed to apply to the enactments of the provincial Assemblies, and to those of the General Assembly since the Revolution only. In some of the acts, special provisions appear to have been considered necessary for the insertion into digests of a few important English statutes. The intention of the framers of the Constitution appears to the Executive to have been of a higher character. With perfect respect for those who have acted on a different opinion, the authors of the Constitution obviously contemplated the revision, digest, and arrangement of the written and unwritten law of the State, and the publication of the whole in the most useful form. The terms the "body of our law, civil and criminal," are general, and comprehend within their scope the common law equally with the statute. Indeed, should it be thought necessary to make a distinction between them, "the body of our law, civil and criminal," must be taken to be exclusively applicable to the common law as the trunk from which the statute law has branched forth. It is not now possible to fulfil the intentions of the Constitution within the time prescribed; but the obligation upon us is not impaired by the lapse of time, nor by the errors, the omissions, and the inadvertencies of those who have preceded us. Reflections on the vast importance of the contemplated work and its extensive utility, if performed with enlightened labor, are deliberately excluded from a communication intended to invite the attention of the General Assembly to the single question of constitutional obligation.

JOHN FORSYTH.

Which was read and referred to the Committee on the Judiciary,—

Messrs. Clayton of Clark, Davies, Gamble, Crawford of Hancock, Phillips, Ezzard, Walthour, Wilson, Munroe, Sellers, and Worthy.

From a hasty glance over the Journal, the author has not been able to discover any action or report of the committee on the subject referred. The suggestion was certainly one of great importance, and would no doubt have been carried into effect if the committee had believed the duty to be imperative, as his Excellency understood it.

That portion of Governor Forsyth's message of 1828 which relates to a court for the correction of errors is here given:—

The condition of the Judiciary requires your most serious attention. Under the present arrangement of eight Judges of the Superior Courts, each confined to the circuit for which he was elected, supreme in his authority, not bound by the decisions of his predecessors or cotemporaries,

and not always by his own, which will be in their turn disregarded by his successor, there can be neither uniformity nor certainty in the laws for the security of the rights of persons or property. It is an awful reflection that property, life, liberty, and reputation are, with us, dependent upon the decision of a single judge, uncontrolled and uncontrollable within his circuit, and not always distinguished for ability, intelligence, and integrity. The confusion produced by cotemporary contradictory decisions every day increases: property is held and recovered in one part of the State, and lost in another part of the State, under the same circumstances; rights are asserted and maintained in one circuit, and denied in another, in analogous cases.

So much depends upon the opinion of a presiding judge, that suits are matters of speculation and management. The most astute lawyer, scrupulously conscientious in the advice given to his clients on cases submitted to him, can only inform them what will be the result if actions are brought and decided during the term of the then presiding judge. Suits are brought or postponed, pressed to trial, suspended or delayed, by the parties, according to the known or supposed opinion of the presiding judge and the nearness or remoteness of the time when a new election of judges must occur. We have all the complicated judicial machinery for the correction of erroneous judgments. Appeals, writs of error, motions for new trials and in arrest of judgment, are used as if in mockery,—since the appeals are tried, the writs determined, the motions decided, by the same judge whose erroneous judgment is to be corrected, arrested, or set aside.

All the delays of the English system are permitted; but time only is gained or lost, unless, indeed, the presiding judge has a mind of extraordinary vigor and magnanimity, capable of discovering and prompt to confess its errors, or death or a new election removes him from his place. The destruction of this judicial octarchy by the substitution of a single supreme judge, whose decision should govern in all the circuits, would be an important improvement. It is not necessary to vest such tremendous power in the hands of one individual. The object to be accomplished can be attained by less dangerous means. The most simple and obvious remedy is the establishment of a court for the correction of errors, &c. This remedy cannot, in my judgment, be applied without a change in the Constitution, which requires that "errors shall be corrected and new trials determined in the Superior Court of the county in which the action originated." Under this clause of the Constitution, however, conventions of the judges have been required; and in these, properly regulated, a palliative may be found for the existing disorders, until a radical cure can be effected by an alteration of the Constitution.

The administration of Gov. Forsyth was disturbed by no bitter contests. He adhered to the policy of his predecessor, from whom he received the Great Seal of State,—which was, indeed, strictly in accordance with his own principles and convictions. His message of November 3, 1829, closed as follows:—

I congratulate you on the present condition and future prospects of the State. Blessed with peace, health, and abundance,—with immense resources in possession and greater in expectancy,—what is there we can rationally desire to effect that we may not hope to accomplish? For

the manifold bounties bestowed upon us by a benignant Providence more is due than humble gratitude and heartfelt thanks. These become all men; but public agents must remember that from those to whom much is given much is expected; and, if unwilling to be classed with the unprofitable servant who buried his talent in the earth, the gifts bestowed must be turned to useful account by unremitted and well-directed toil. May that Being in whose hands men and empires are dust and ashes smile on your labors, secure you here the reward of well-deserved applause, and crown you hereafter with immortal joy!

At the session of the Legislature in 1829, Gov. Forsyth was elected to the Senate of the United States, and soon became the champion of Gen. Jackson's administration in that branch of Congress. His powers of debate and capacity as a leader will be noticed elsewhere in this memoir. The Tariff of 1832, which operated so unjustly upon the South, contained the odious minimum feature, as will be seen by the following clause from the second section:—

On all manufactures of cotton, or of which cotton shall be a component part, twenty-five per centum ad valorem, excepting cotton twist, yarn, and thread, which shall remain at the rate of duty fixed by the act to amend the several acts imposing duties on imports, of 22d May, 1824: *And provided*, That all manufactures of cotton, or of which cotton shall be a component part, not dyed, colored, printed, or stained, not exceeding in value thirty cents the square yard, shall be valued at thirty cents per square yard; and if dyed, colored, printed, or stained, in whole or in part, not exceeding in value thirty-five cents the square yard, shall be valued at thirty-five cents per square yard.

On this plan, a yard of cotton goods which cost the importer eight cent paid as much as a yard that cost thirty-five cents,—both taxed eight and three-quarter cents per yard, making more than one hundred per cent on the inferior article. It was this principle, bearing so heavily on articles consumed by the masses, that excited the South against the Tariff, as it had the effect of keeping out all foreign fabrics and giving the market exclusively to home-manufactures of cotton at the enhanced price. For reference, the following table is given, showing the vote on the passage of the bill in the House of Representatives, June 28, 1832:—

STATES.	YEAS.	NAYS.	STATES.	YEAS.	NAYS.
1. Maine	6	1	7. New York.....	27	2
2. New Hampshire	5		8. New Jersey.....	3	3
3. Massachusetts ...	4	8	9. Pennsylvania.....	14	12
4. Rhode Island....		2	10. Delaware.....		1
5. Connecticut	2	3	11. Maryland.....		8
6. Vermont.....		3	12. Virginia.....	11	8

	YEAS. NAYS.			YEAS. NAYS.	
Brought over.....	80	43			
13. North Carolina...	8	4	19. Louisiana	1	2
14. South Carolina...	3	6	20. Indiana.....	3	
15. Georgia	1	6	21. Illinois.....	1	
16. Kentucky.....	9	3	22. Alabama.....	2	1
17. Tennessee.....	9		23. Missouri.....	1	
18. Ohio.....	13		24. Mississippi.....	1	
Total.....			132 65		

The members from South Carolina who voted for the Tariff of July 14, 1832, were James Blair, William Drayton, and Thomas R. Mitchell; and the member from Georgia who voted for it was James M. Wayne. The Representatives from Georgia who voted against it were Augustin S. Clayton, Thomas F. Foster, Henry G. Lamar, Daniel Newnan, Wiley Thompson, and Richard H. Wilde.

The bill passed the Senate July 9, 1832, by a vote of 32 to 16,—the following Senators voting against it:—Littleton W. Tazewell and John Tyler, of Virginia; Bedford Brown and Willie P. Mangum, of North Carolina; Robert Y. Hayne and Stephen D. Miller, of South Carolina; JOHN FORSYTH and George M. Troup, of Georgia; George M. Bibb, of Kentucky; Felix Grundy and Hugh L. White, of Tennessee; Elias K. Kane, of Illinois; William R. King and Gabriel Moore, of Alabama; and Powhatan Ellis and George Poindexter, of Mississippi.

At the Annual Commencement of Franklin College, in August, 1832, a number of gentlemen consulted together on the grievances of the Tariff, and held a public meeting at Athens. After the preamble, reciting the acts of Congress complained of, and their injustice to the South, the meeting adopted the following resolutions:—

1. That we, as free citizens of Georgia, will not longer submit to this system of legislation, which is arbitrary, unequal, unconstitutional, and therefore unjust; that it be recommended to our fellow-citizens in the several counties to elect delegates to a State Convention to assemble at Milledgeville on the second Monday in November next, and to invest them with full power, in behalf of the good people of Georgia, to maintain, preserve, and defend the rights and privileges of the free citizens of this State.

2. That John Macpherson Berrien, Augustin S. Clayton, Thomas Glascock, Joel Crawford, Samuel Rockwell, William H. Torrance, and William C. Dawson, be a committee of correspondence to confer with our fellow-citizens of other States on all matters connected with our common interests.

Pursuant to this call, the people of sixty-one counties appointed delegates to meet in convention at Milledgeville. Accordingly, in the afternoon of Monday, November 12, 1832, these delegates assembled in the Representative-Chamber, and organized by electing the Hon. George R. Gilmer President, and William Y. Hansell, Benjamin T. Mosely, and Mansfield Torrance, Esqrs., Secretaries. The Hon. John Forsyth, Col. William Cumming, and Hon. John P. King were the delegates from Richmond county. A list of all the delegates may be seen elsewhere in this work.*

A resolution was offered by Mr. William H. Torrance, and agreed to, as follows:—

Resolved, That a committee of twenty-one be appointed, whose duty it shall be to report resolutions expressive of the sense of this Convention in relation to the protective system, and the best and most efficient means of obtaining relief from the evils of that system; and that the said committee be further instructed to report what objects ought to engage the attention of this Convention, and what will be the most efficient means of accomplishing the same.

The President appointed the following gentlemen as that committee:—

- | | |
|------------------------|-----------------------|
| 1 David Blackshear, | 11 Samuel Rockwell, |
| 2 John M. Berrien, | 12 Robert A. Beall, |
| 3 John Forsyth, | 13 David Taylor, |
| 4 William Cumming, | 14 Samuel A. Bailey, |
| 5 Augustin S. Clayton, | 15 Hiram Warner, |
| 6 Alfred Cuthbert, | 16 William C. Dawson, |
| 7 Roger L. Gamble, | 17 Thomas Haynes, |
| 8 David A. Reese, | 18 Charles P. Gordon, |
| 9 Thomas Spalding, | 19 Gibson Clark, |
| 10 James M. Tait, | 20 Absalom Janes, |
| 21 Thomas W. Harris. | |

On the second day of the Convention, Mr. Forsyth submitted the following resolutions:—

Resolved, That a committee of five be appointed by the President to examine and report to this body at its next meeting the authority of the persons assembled as delegates from the different counties of the State to represent the people of their respective counties; the resolutions, if any, under which the election in each county was held, the manner of holding it, the number of votes given at the election, and the number of votes in the county.

* In the memoir of R. A. Beall, vol. i. p. 34.

Resolved, That the individuals who have been elected as a committee of what is known as the Athens meeting be, and they are hereby, requested to present to this body the correspondence they have held connected with the object of their appointment.

Mr. Torrance proposed a substitute for the first resolution, and Mr. Berrien an amendment.

The debate took a wide range. Mr. Forsyth had ingeniously presented such a demand that not a single delegate could have furnished the evidence unless himself and his colleagues had taken the precaution, knowing the ordeal to be instituted. It was a plausible ground, this call for authority. He opened the discussion calmly, in statesmanlike order, and gave specimens of eloquence never before heard in the Representative-Chamber. His inquiry was to ascertain if the people had really clothed the delegates, who professed to speak in their name, with power to bind them. Action of some kind was to be taken by the Convention; and it was to be either binding or not binding. If the former, the delegates should produce their authority, showing that they were selected in good faith and in open day. He would not deliberate with men, however respectable, on issues so grave, unless they exhibited their authority to speak in the name of the people. He would not go into an examination of the Tariff, whether or not the people of the South had just cause for resistance, until the preliminary investigation was had,—a measure demanded by the self-respect and dignity of the Convention.

Such was the scope of the argument and the bearing of the question. However imperfectly noted here, it was sufficient at the time to draw forth all the orator, the politician, and the patriot. Mr. Berrien was evidently surprised by this side-blow at the Convention. He was no doubt fully prepared, on the Tariff, to demonstrate the grievances of the South; but his reply to Mr. Forsyth was unequal: it lacked his usual cogency: it had the beauty of a picture, but not the strength and vitality of argument,—such an argument especially as Mr. Berrien always made on constitutional questions. The galleries applauded when he rose; but he gently raised his hand in token of disapprobation, and set his eloquence to work, producing the round, oily periods, the dulcet tones of voice, richer than the organ, which no man living can rival. Mr. Berrien delighted the vast audience. He always preferred time to reflect, to arrange his views, and to make his points to the best advantage. That opportunity was now denied him, and he had to grapple with the best off-hand debater in the world. Burke may

have been more philosophical and ornate, Fox more logical and comprehensive, Sheridan more brilliant in illustration, more witty in repartee, and Pitt may have marched in more stately grandeur to elevate the British House of Commons; but not one of them was the polemic gladiator, the ready, ever-buoyant and dignified master of elocution, that Mr. Forsyth was, with look and gesture, inflection of voice, and all the qualities of a high-bred soul gushing for victory. Who ever had such a sarcastic expression of the lip, such a scornful jerk of the nose, to annihilate an adversary when the occasion called for such a catastrophe? He was a perfect model of eloquence, without having copied any man or any rules. By some happy method, accidental or otherwise, he had accommodated his organs of speech to the capacity of the lungs for respiration. He was never out of breath: he always had a full supply, so that his voice was always clear and resonant, always pleasant to the ear in its high or low keys or in its grand or simple modulations. There were no hurry, no breaks, no discord or accidents, in that constant stream of pure vocalization. The listener had no dread of failure. He beheld glittering landscapes and a rich panorama of city refinement and rural simplicity, set off by the softest music, all teeming from the magic skill of the orator.

Such was Mr. Forsyth in the memorable Anti-Tariff Convention of 1832,—the only time, perhaps, when, he was heard by so many of his fellow-citizens of Georgia, opposed as he was by such an array of talent.

Other gentlemen of ability and influence addressed the Convention. In a register of debates they would appear equal to Mr. Forsyth; but on the floor his superiority was conceded by all, friend or foe.

The discussion occupied three afternoons: (the Convention sat only in the recess after each daily adjournment of the Legislature.) The vote was then taken on the amendment of Mr. Berrien, which was, in effect, a substitute for the first resolution of Mr. Forsyth, and resulted—Yeas, 63; Nays, 56.

When the vote was announced, Mr. Forsyth rose, and stated that, in compliance with a promise he had made to the Convention when he proposed the inquiry which had just been denied, he would not longer remain in the Convention. He would, however, leave a statement of the reasons which had influenced him and those who concurred in the course adopted. After some remarks disclaiming all personal unkindness, he advanced to the clerk's table, deposit-

ing a paper* on it, and then retired from the Hall, followed by about fifty other delegates. The secession created quite a stir, witnessed by full galleries. Every thing was conducted in order by the withdrawing party, and the utmost decorum was observed by those who remained in the Convention.

When silence was restored, some gentleman moved that the paper on the clerk's table be taken up and read. Mr. Berrien objected, remarking that it might not be prudent to do so. The paper was not read. A copy of it appeared in the next issue of the *Federal Union*, and in other papers of the same politics, besides a large edition in letter-form for circulation among the people. The following is the

PROTEST.

The undersigned, who have been appointed delegates to a State Convention to be held at Milledgeville, hereby declare their secession from the body which is now sitting under that title, for the following reasons:—

First. More than twenty counties are unrepresented in the Convention. The absence of so large a part of a perfect representation would in any case make it probable, and in the present instance renders it almost certain, that any important vote of a majority of the Convention will be, in effect, a vote of the minority of the people.

Second. Not only have more than twenty counties plainly indicated that they disapprove the Convention, by declining to send delegates, but many of those which are represented made appointments, not because they approved of the Convention, but that their delegates might endeavor to avert the evils which they anticipated from the meeting, and in the expectation that those delegates would withdraw whenever a course should be adopted inconsistent with the rights of their constituents.

Third. We conceive that a course has been adopted inconsistent not only with the rights of our constituents, but with justice to the whole people. A very great proportion of those sitting as delegates have produced no sufficient evidence that they are duly authorized to appear in behalf of those counties which they nominally represent; and the majority of the Convention has refused to institute and enforce such a scrutiny as is indispensable to the investigation of this essential fact.

Under these circumstances, we deem it an imperative duty to secede,—at the same time entering a solemn protest against any authority or influence which may be claimed for the acts of the body which we have left, as acts of a convention representing the people of Georgia.

1 John Forsyth,
2 Wm. Cumming,

3 Tho. W. Harris,
4 T. Haynes,

* The original protest, the identical sheet of paper thus left by Mr. Forsyth, is in possession of the author. It was kindly presented to him, in 1856, by Dr. Charles J. Paine, who found it among some old papers in his house, somewhat mutilated by the rats. The signatures, however, except two, are perfect, and are copied in the order in which they appear to the protest.

5 Wm. H. Underwood,	28 Thomas Long,
6 A. Brown,	29 Barkley Martin,
7 H. Crowell,	30 John M. McAfee,
8 Hiram Warner,	31 H. T. Mosely,
9 N. B. Powell,	32 John G. Park,
10 Z. B. Hargrove,	33 Matthew Phillips,
11 Lewis J. Deupree,	34 William M. Morton,
12 Hugh Lawson,	35 Samuel Robinson,
13 Andrew R. Moore,	36 William Slone,
14 O. H. Kenan,	37 Orion Stroud,
15 D. A. Reese,	38 David Taylor, Jr.
16 Burwell W. Bracewell,	39 R. Remson,
17 John G. Pittman,	40 Samuel Lockhart,
18 Walter L. Campbell,	41 Thomas Watson,
19 Gibson Clark,	42 John P. King,
20 James Coker,	43 David Kiddoo,
21 Alfred Cuthbert,	44 Oliver Clarke,
22 John R. Daniell,	45 Theophilus J. Hill,
23 Hugh W. Ector,	46 N. Garrison,
24 Samuel Fariss,	47 Horace R. Ward,
25 Thomas Gibson,	48 Joseph Hull,
26 Benjamin Holland,	49 Thomas H. Key,
27 James G. Lewis,	[2 signatures destroyed.]

It is not necessary to notice here the proceedings of the Convention after the protest. For the legislative action on the subject the reader is referred to another memoir* in this volume. The precaution of Mr. Berrien not to have the protest read in the Convention kept it from the journal or minutes of that body, and therefore from obtaining a circulation of several thousand copies,—the antidote with the poison.

The course of Mr. Forsyth and his followers was censured or approved as parties happened to rule in different counties, in some of which meetings were held on the subject. The resolutions of a public meeting, over which Gen. L. L. Griffin presided, in Monroe county, in January, 1833, are here given as a specimen:—

Whereas, the prosperity, independence, and security of these United States can be effected and maintained only by the continuance of the Union and the preservation of the Constitution and forms of government established by the wisdom, patriotism, and firmness of our fathers, by whose noble exertions their descendants have reaped national prosperity, renown, and individual happiness;

And whereas, the State of South Carolina, by its Convention, and the proceedings of its Legislature in obedience thereto, has rushed upon a rash, unconstitutional, and dangerous policy,—one calculated to destroy the fairest hopes of liberty and subvert the wisest, happiest Government ever devised by the wisdom of man;

* Memoir of Governor Towns.

And whereas, the President of the United States has issued his proclamation declaring the unconstitutionality of such proceedings so far as they regard the assumed power of a State to nullify an act of Congress passed according to all the usual forms of national legislation, as required by the Constitution of the Union ;

And whereas, in all cases of danger to the Union or to our people it becomes the duty of our citizens to guard against both by all proper means :

Therefore, Resolved, That this meeting do entirely disapprove of the absurd and heretical doctrines advanced in a certain extraordinary ordinance passed and promulgated by the South Carolina Convention, it being calculated to dissolve the Union, retard the progress of liberty, and foster the seeds of anarchy and ruin.

Resolved, That we entirely approbate the proclamation of the President of the United States, as being entirely constitutional, timely, and necessary ; that in that able document we recognise the spirit of the patriot, statesman, and lover of the Union.

Resolved, That our sympathies and feelings are with the Union party of South Carolina ; that we highly approve of their course in convention in maintaining their rights, and their career in general in contending for and supporting the supremacy of the laws of the United States against the revolutionary measures of unholy ambition.

Resolved, That we highly approve the course pursued by the Hon. John Forsyth, and those who acted with him, in seceding from the late body that convened in Milledgeville, the self-styled Georgia Convention.

While the State-Rights party of Georgia was preparing, the drama of nullification had been in rehearsal in a neighboring State and was ready for the public. Mr. Forsyth alluded to it in the Convention, and implored the majority not to throw obstacles in the way of President Jackson, who was doing all in his power to modify the protective system and meet the just expectations of the South. Chancellor Harper, representing the State-Rights party of South Carolina, and the Hon. David Johnson, sustaining the same relation to the Union party, were present in seats expressly provided for them in the Convention. By his second resolution Mr. Forsyth aimed to bring to light any concert of action between the leaders in Georgia and those in South Carolina, if any had taken place on the "constitutional remedy;" but, after the first resolution was voted down, he withdrew the other.

As Mr. Forsyth opposed the South Carolina movement from its inception, it will be permitted here to notice its progress.

On the 6th of October, 1832, Gov. Hamilton issued his proclamation convening the Legislature of South Carolina on the 22d of the same month. His message to that body closed as follows :—

In conclusion, fellow-citizens, our cause is worthy of our highest, our most zealous, and our most inflexible efforts. It is for no object of ambition, no lust of power or avarice, that we have assumed our present pos-

ture in relation to the usurpations of the Federal Government; but it is to redeem the Constitution of our country from unhallowed violation,—to maintain its ascendancy over the law-making authority,—to save this once-cherished Union from a corruption and misrule that doom it to irreversible disruption,—to bring the Government back to the salutary principles of a just and economical administration,—to restore to our own homes and the homes of our fathers their wonted prosperity, by the glorious effort of recovering for our country a privilege we have never surrendered, of exchanging in profound peace the fruits of our labor, under a wise system of free intercourse, with the rest of the world,—a privilege which, it has been justly said, belongs to the Christian code among civilized nations. With these objects, and standing firmly on our right, I implore the blessings of Almighty God on your deliberations, that they may redound to the liberty, peace, and happiness of our common country, as well as of the people whom you especially represent.

On the 26th of October, 1832, the Legislature passed an act to provide for the calling of a convention of the people of South Carolina. In his address on taking his seat as President of the Convention, Gov. Hamilton observed:—

In conclusion, permit me to say that, in taking the matters under consideration submitted to us, my anxious prayer is that our deliberations in their results may tend to establish *our own* liberties, to maintain the rights and privileges of *our own* people, and with these to give stability to the Union, to restore harmony to our altars and our firesides,—that harmony and affection out of which the Union sprung, and which are its best refuge and defence.

These extracts show that no violence was intended; that the object rather was to restore harmony to the Union and do justice to all its members.

The Convention assembled at Columbia on the 19th November, 1832, and on the 26th the report of the Committee of Twenty-One was adopted, from which the following is an extract:—

It so happens that six of the Southern States, whose industry is almost exclusively agricultural, though embracing a population equal to only one-third part of the whole Union, actually produce for exportation near \$40,000,000 annually, being about two-thirds of the whole domestic exports of the United States. As it is their interest, so it is unquestionably their right, to carry these fruits of their own honest industry to the best market, without any molestation, hinderance, or restraint whatsoever, and subject to no taxes or other charges but such as may be necessary for the payment of the reasonable expenses of the Government. But how does this system operate upon our industry? While imports to the amount of ten or twelve per cent. (if arranged on just and equal principles) must be admitted to be fully adequate to all the legitimate purposes of Government, duties are actually imposed (with a few inconsiderable exceptions) upon all the woollens, cottons, iron, and manufactures of iron, sugar, and salt, and almost every other article received in exchange for the cotton, rice, and tobacco of the South, equal on an average to about fifty per cent.,

whereby (in addition to the injurious effects of this system in prohibiting some articles and discouraging the introduction of others) a tax equal to one-half of the first cost is imposed upon the cottons, woollens, and iron which are the fruits of Southern industry, in order to secure an advantage in the home-market to their rivals, the American manufacturers of similar articles, equivalent to one-half of their value,—thereby stimulating the industry of the North and discouraging that of the South, by granting bounties to the one and imposing taxes upon the other.

The report is a long and elaborate argument showing the unconstitutionality and injustice of the Tariff. The chairman of the committee was the Hon. Charles J. Colcock. Among its other members were the late William Harper, Robert Y. Hayne, Stephen D. Miller, George McDuffie, Robert J. Turnbull, and Pierce M. Butler. The closing paragraph is as follows:—

South Carolina will continue to cherish a sincere attachment to the UNION of the States, and will to the utmost of her power endeavor to preserve it, and believes that for this end it is her duty to watch over and oppose any infraction of those principles which constitute the very basis of that union, because a faithful observance of them can alone secure its existence. She venerates the CONSTITUTION, and will protect and defend it against every aggression, whether foreign or domestic; but above all she estimates as beyond all price her LIBERTY, which she is unalterably determined never to surrender while she has the power to maintain it. Influenced by these views, your committee report herewith for the adoption of the Convention a solemn DECLARATION and ORDINANCE.

The ordinance was adopted on the 24th day of November, 1832, by a vote of 136 yeas to 26 nays. It begins by a preamble, and then declares, in substance,—

1. That the acts of Congress imposing duties on imports are unauthorized by the Constitution of the United States, and are null and void, and no law, nor binding upon the State, its officers or citizens; and all promises, contracts, or obligations entered into to secure duties imposed by said acts, and all judicial proceedings to enforce the same, shall be held utterly null and void.

2. That it shall not be lawful for any authorities, Federal or State, within the limits of South Carolina, to enforce the payment of duties imposed by said acts from and after the first day of February, 1833,—the Legislature to make such provision as may be necessary to carry out the object of the ordinance.

3. That no appeal shall be allowed in any case drawing in question the authority of the ordinance, or the validity of any act of the Legislature to carry it into effect; nor shall any copy of record be furnished for the purpose of an appeal to the Supreme

Court of the United States, on pain of contempt; nor will any judgment of reversal be regarded.

4. That all persons holding offices of honor, trust, or profit, civil or military, shall take an oath to obey and execute the ordinance and the acts of the Legislature to give it effect. If such oath be not taken, the office is at once vacated; nor can any person exercise office under a new election without taking said oath.

5. That if the General Government shall employ force, military or naval, against the State, its officers or citizens, or shall shut up her ports, or take any steps to enforce the acts of Congress so declared void, except through the civil tribunals, then South Carolina and her people will be absolved from all political connection with the people of the other States, "and will forthwith proceed to organize a separate government, and do all the acts and things which sovereign and independent States may of right do."

This was indeed a perilous attitude for the State; and yet there is no doubt the people were honestly and firmly resolved to maintain it. How disunion was prevented it may be interesting to show by official documents. Passing over the several acts of the Legislature, and the addresses to the people to vindicate the course taken, it will be necessary to notice the proclamation of President Jackson of 10th December, 1832, from which the following is an extract:—

The laws of the United States must be executed. I have no discretionary power on the subject: my duty is emphatically pronounced in the Constitution. Those who told you [the people of South Carolina] that you might peaceably prevent their execution deceived you: they could not have been deceived themselves. They know that a forcible opposition could alone prevent the execution of the laws, and they know that such opposition must be repelled. Their object is disunion: be not deceived by names: disunion by armed force is TREASON. Are you really ready to incur its guilt? If you are, on the heads of the instigators of the act be the dreadful consequences,—on their heads be the dishonor; but on yours may fall the punishment; on your unhappy State will inevitably fall all the evils of the conflict you force upon the Government of your country. It cannot accede to the mad project of disunion of which you would be the first victims: its first magistrate cannot, if he would, avoid the performance of his duty. The consequence must be fearful for you, distressing to your fellow-citizens here and to the friends of good government throughout the world.

The President then advises the people to retrace their steps, to bid the Legislature reassemble and repeal the ruinous acts, &c.

In response to this appeal, the Legislature, then in session,—

Resolved, That his Excellency the Governor be requested forthwith to issue his proclamation, warning the good people of this State against

the attempt of the President of the United States to seduce them from their allegiance, exhorting them to disregard his vain menaces, and to be prepared to sustain the dignity and protect the liberty of the State against the arbitrary measures proposed by the President.

Gov. Hayne, on the 20th December, 1832, issued his counter-proclamation at great length, summing up the whole controversy. This passage occurs in it:—

And what is our present condition? We have an organized government, and a population three times as great as that which existed in '76. We are maintaining not only the rights and liberties of the people, but the sovereignty of our own State, against whose authority rebellion may be committed, but in obedience to whose commands no man can commit treason. We are struggling against unconstitutional and oppressive taxation imposed upon us not only without our consent, but in defiance of our repeated remonstrances and solemn protests. In such a quarrel our duty to our country, ourselves, and our posterity is too plain to be mistaken. We will stand upon the soil of South Carolina and maintain the sovereign authority, or be buried beneath its ruins.

While this fearful issue was pending, the State of Virginia, animated by her lofty principles, interposed her mediation, and, by the appointment of a special commissioner, the Hon. Benjamin Watkins Leigh, prevailed on the authorities of South Carolina to repeal the ordinance of nullification. And thus the clouds of civil war were dispelled,—all parties the better and wiser for the conflict. Other States joined in the appeal to South Carolina to suspend her action. Mr. Clay's Compromise act of March 3, 1833, soon followed, and the pacification was complete. On the passage of that measure the vote in the House of Representatives was 119 to 85, and in the Senate 29 to 16,—Mr. Forsyth voting in the affirmative.

The next question which agitated the country was the removal of the public deposits from the Bank of the United States, and the dismissal from office of Mr. Duane, because, as Secretary of the Treasury, he refused to sign the order. This proceeding took place in September, 1833. Mr. Taney, then Attorney-General, was next appointed Secretary of the Treasury, who made the order as resolved upon by the Cabinet paper which President Jackson refused to submit to the Senate after being requested, by a formal resolution of that body, to communicate a copy. He would not recognise the authority of the Senate to inquire into or supervise his Cabinet consultations. For these he was responsible to the country in the general exercise of his duties, and to no other tribunal.

In the war which ensued between the President and the Senate,

after the passage of the resolution censuring his conduct in the removal of the deposits, Mr. Forsyth was the acknowledged leader of the administration in Congress. He gained laurels in every debate, if not victory in every contest. Such an exhibition of power on sudden emergencies had never been witnessed before. In January, 1834, he delivered a speech of considerable length justifying the President, from which the following is extracted :—

The President of the United States and the late Secretary of the Treasury seem, sir, to have well understood their respective powers and obligations. When the question of the removal of the deposits was first agitated, with the frankness and firmness entitled to public respect, Mr. Duane opposed the measure: it was one he could not sanction; but, if resolved upon by the President, he would give way for another who, coinciding with the President, could act without scruple or hesitation. After a thorough investigation of the various arguments submitted to him, the President made his decision, and then, unfortunately, declined fulfilling his voluntary engagement. The cause assigned was still more unfortunate. He conceived that he was insulted. This did not absolve him from his engagement: indeed, it should have furnished a new motive for withdrawing. If treated courteously, his resignation should have been tendered out of respect to the President; if rudely, he should have thrown back upon the President his commission, from respect to himself.

Honorable Senators censure without measure the paper read to the Cabinet by the President. The exercise of ordinary charity would place the subject in a very different light from that thrown upon it here. Is it not apparent from the document itself, recollecting the preceding and attendant circumstances, that the sole object of the President was to shield Mr. Duane from the responsibility of the act which he seemed to dread? The President desired to take the whole, to reconcile his Secretary to the course resolved on. Entertaining a conscientious conviction that the course was fraught with injurious consequences to the public, the Secretary would have been faithless had he accepted the offered shelter. He was only wrong in shifting the ground upon which he stood. No honest Secretary will ever put his hand to a work which, in his judgment, will bring ruin or distress upon his country. No public officer is bound to suffer even uncourteous treatment from the Chief-Magistrate: the only honorable step in either case is resignation of office, and submission of his conduct to the judgment of that great tribunal—public opinion—to which all must yield a cheerful or forced obedience.

If little charity has been shown to the President, by what term shall I describe the treatment of the present Secretary of the Treasury, distinguished through a long life as a politician, and as a man, by his urbanity, and courtesy, and virtue? To call it harsh would not convey an adequate idea of its extreme injustice. An officer who, previous to his appointment to the Treasury Department, had urged upon the President, by fact and argument, the propriety of a removal of the deposits, is accused of being made the supple tool of the Executive for that act,—is represented as standing by, the cold spectator of the struggles of his colleague in the contest between his conscience and his attachment to the Chief-Magistrate, as witnessing the contemptuous expulsion of that colleague from office, and then coolly entering the vacant place without sympathy or the smallest

emotion for the man who preferred the loss of honors and emolument to a betrayal of the interests of the people.

The present Secretary* left a place of honor for another not more honorable,—a place of great responsibility for one of greater responsibility,—a place uniting honor and *profit*, which the condition of a large family impelled him to regard, for an honorable place, the profits of which are insufficient to defray his necessarily-increased expenditures. These circumstances alone should protect him from the slightest censure; but he stood committed to the President by his previously-given advice, and, when called upon to perform a task he had urged upon his colleague, he could not, without dishonor, have disobeyed the call. He stood pledged to the Chief-Magistrate and to the country, and he has not shrunk from his duty. He abides, with unshaken confidence in the justice of his country, all the consequences of the act he recommended to another and performed himself. And now is he represented here by the Senators from Kentucky (Clay) and South Carolina (Calhoun) as claiming all power to himself and denying all power to Congress,—as claiming to himself and the Executive an authoritative control over the whole treasure of the nation, and denying the right of Congress to interfere. This is a terrible position to an officer whose duties are prescribed by Congress,—who is now dependent upon one branch of Congress for his continuance in an office which he is accused of having earned, regardless of the feelings and honors of a colleague, by base subserviency to the mandates of a ruthless master.

Passing over other parts of the speech, the peroration is here given:—

Well, sir, did the honorable Senator (Mr. Clay) play his part. Skillfully did he avail himself of the false position of South Carolina to effect his great purpose of saving from approaching shipwreck his favorite system. In the views which he presented of the probable fate of the Tariff I entirely concurred. Nevertheless, he had my aid in the passage of the bill of compromise. I knew I was doing present and prospective injustice to my constituents; but I acted under duress. I gave my aid to one great evil to avert the greatest of all evils,—civil war. How imminent the danger, let the condition of the adverse parties in Charleston—the fairest of our Southern cities—attest. With passions inflamed to madness, they watched each other. Friends, cordial and familiar friends a few years since, met in the market-place with the stern courtesy of pre-determined hostility. Every man looked upon the ground on which he stood as the probable scene of a bloody contest. Arms and ammunition were prepared, organization complete, the array ready to be made. They stood like gladiators, stripped on the arena, with foot advanced, looks of proud defiance, hand on glaive, kindling eyes, waiting the expected signal

* The Hon. Roger B. Taney resigned the office of Attorney-General when he accepted the Treasury Department; but the Senate rejected his nomination, and he was remitted to private life. He was next nominated as Associate Justice of the Supreme Court in the place of Justice Duval, resigned, and was again rejected. By the 4th of March, 1836, sufficient changes had been made in the political cast of the Senate to give a majority in favor of the administration. Mr. Taney was then nominated as Chief-Justice of the United States to fill the vacancy caused by the death of Chief-Justice Marshall, and on the 15th of March, 1836, the nomination was confirmed by the Senate. He has proved worthy of the high trust.

to bare their blades and rush with the fury of unchained tigers at each others' throats. And who were to be the leaders in this deadly strife? The Hamiltons, and the Haynes, and the Pinckneys, and the Rutledges, and the Draytons, and the Hegers, and the Middletons, and the Poinsetts, and the Pettigrues,—men whose sires, shoulder to shoulder, had stood the brunt of Revolutionary battle, cemented with their blood our independence, raised up by the wisdom of their councils this mighty fabric of government, which secures the happiness of millions of freemen, whilst its blessed influence is circling like the sunlight over the darkness of the whole earth,—sons worthy of such sires, illustrious by their moral and intellectual worth, who had performed all their duties in peace and war, who had emblazoned their names in deathless characters on the fairest pages of our history. These were the men who were about to present to a pitying and astonished world the heart-withering spectacle of patriots' swords dyed in civil conflict with patriots' blood. It was not the will of the Omnipotent that another bloody sacrifice should be made to atone for the sins of the people as the price of the precious blessings bestowed by his bounty. The cup of bitterness, humiliation, and woe passed untasted from our lips. Would it thus have passed away if that despised, reprobated, vilified, hated, but just and stern, old man had not occupied the House and the hearts of the people?

It is not necessary to dwell longer on the Congressional services of Mr. Forsyth. He had become a man of note, of high renown as a statesman and an orator. President Jackson appointed him Secretary of State; and his nomination was confirmed by the Senate on the 27th day of June, 1834, in place of the Hon. Louis McLane,* resigned.

Throughout the remainder of Gen. Jackson's term, and until March 4, 1841, when President Van Buren retired, Mr. Forsyth continued at the head of the Cabinet. His official communications were remarkable for their ability, polish, and all those elevated courtesies which give a charm to diplomacy. The Cabinets of Europe were familiar with, and appreciated, his generous and patriotic character.

One subject is deemed so interesting that it is here specially noticed,—the proposed annexation of Texas to the United States, under Mr. Van Buren's administration. The reply of Mr. Forsyth is also given,—not only for the sake of the argument, but as a specimen of his style.

On the 4th of August, 1837, General Memucan Hunt, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Texas, addressed a note to Mr. Forsyth, as Secretary of State, offering to cede Texas to the United States and to open negotiations for that purpose. Owing to the length of his note, (occupying about ten pages in documentary form,) only a synopsis can be

* Mr. McLane died in October, 1857.

given in this memoir. The note is ably written, abounding in details and in argument, showing "some few of the great advantages—both national and social—which would result to the two contracting parties from the proposed amalgamation of their respective sovereignties." Events in chronological order will be noted.

In 1698, the old Spanish town of Bexar was founded; in 1716, La Bahia, afterward Goliad; Nacogdoches in 1732; Victoria at a later period. These old settlements were surrounded and cramped by the Indians of various savage tribes up to 1821, when the dawn of civilization began. In January of that year, Moses Austin, and after him his son, Stephen F. Austin, planted a colony of Anglo-American emigrants on the river Brazos. In the mean time Mexico had shaken off the Spanish yoke and had formed an independent government. The Emperor Iturbide in 1823, by a decree, authorized Austin to proceed with his colony.

In 1824, the Constitution of Mexico, based upon that of the United States, was established, and the provinces of Texas and Coahuila were united as one of the States of the Mexican Confederacy. During the year 1825, another general colonization-law was passed, granting lands, under which the country was rapidly settled. But, in 1830, the Supreme Government prohibited the further introduction of American settlers in Texas. In 1832, hostilities broke out between Bustamante and Santa Anna, two rival chieftains. Under the latter, the colonists took possession of the Mexican forts at Velasco, Anahuac, and Nacogdoches. In 1833, Texas attempted to avail herself of the privilege secured by the Constitution of 1824,—that whenever she possessed the elements of self-government she might maintain a separate organization. Stephen F. Austin was duly commissioned to wait upon the Government with a petition for this object. The petition was not only treated with marked insult, but Austin himself was imprisoned in the city of Mexico.

Centralism then became a project with Santa Anna, who, in 1835, attempted to overthrow the State Governments, and to consolidate all power, civil and military, in the hands of a single individual. Most of the States were trampled down by the usurper. In this emergency, the people of Texas declared for the Constitution and took up arms.

General Hunt then describes the preparation, the conflict, and the victory at San Jacinto on the 21st of April, 1836, when Santa Anna, then President of Mexico, was made prisoner and his army annihilated. The names of Fannin, Bowie, and Crockett appear

in the list of heroes who perished in the cause of freedom. Passing over other matters touched upon, the language of Gen. Hunt is here quoted:—

She [Texas] has a territory estimated at near two hundred thousand square miles, a population of one hundred thousand, capable of throwing into the field an army of eight thousand strong; and such is the fertility of her soil and the industry of her people that, besides the productions necessary for the support of her population, her exports of cotton will probably this year amount to fifty thousand bales. Her revenue—arising from imposts and taxes under a law of the late Congress, without reference to the income accruing from the public domain—has been estimated at half a million of dollars. The great extent of her public domain—capable of sustaining a population of ten millions, embracing every variety of soil, and blessed with a climate most propitious for agricultural pursuits—justifies the assertion that Texas is, for her population, a nation of equal resources with any other on the globe. The undersigned, therefore, feels confident that the Honorable the Secretary of State will at once perceive that the people of Texas, in assigning their affection for the people of the United States as their principal reason for desiring annexation, are amply provided with all the resources to become of themselves a powerful nation.

Thus, then, it is that Texas, in seeking to place herself among the States of the Union, is prompted mainly by a filial reverence for the Constitution and the people of the United States. She has no expectation of an invasion, much less of a reconquest, at the hands of Mexico. The humiliating defeat and capture of General Santa Anna at San Jacinto is too fresh upon the memories of her soldiery to justify the indulgence of any such apprehensions. Nor does she seek annexation as a shield of protection against the interference of European monarchies. Since the recognition of her independence by the Government of this country, she has too much reliance upon the wisdom and the justice of England and France to suppose that either of the crowned heads of those two nations will occupy any other than positions of the most decided neutrality with reference to the difficulties between Mexico and herself; and, should this proposition of annexation not be acceded to by this Government, she confidently expects at the hands of every civilized nation of Europe the honors of a recognition, as a preliminary step to the formation of treaties of amity and commerce.

In reviewing the interests of the two republics involved in this question of annexation, the undersigned cannot concede that the United States encounters an equal sacrifice with the people of Texas. Texas brings to this negotiation not only the resources already recapitulated, but her sovereignty. She brings, too, that which, in the eyes of the naval powers of Europe, will constitute the material ground for the formation of the most liberal commercial treaties,—viz.: her immense forests of live-oak, comprising, according to the estimate of President Houston in his message of the 5th of May, 1837, four-fifths of all that species of timber now in the world.

She brings, too, a market for all the various manufactures and for all the agricultural products of the United States, excepting those of cotton and sugar; and these she will contribute from her own soil to swell the already colossal amount of the exports of this nation. The territory, and

with it the enterprise, of the country will be extended; her political power will be increased; and the undersigned trusts that he will not be considered intrusive in expressing his deep conviction that the Union of these States will be strengthened by the annexation of a people whose proudest impulses are for its continuance and glory.

What advantage the United States brings to this negotiation the undersigned will not presume to suggest. Her immense resources, her splendid fleets, her power to raise armies, her magnificent Government, her unexampled career of prosperity, her incomparable administration of justice, and, finally, all her attributes of greatness, are sources of as much congratulation to the people of Texas as they can possibly be to herself. What Texas wishes at the hands of the Government of this Union is simply annexation,—an amalgamation of flags; and the undersigned assures the Honorable the Secretary of State that this is the solitary advantage which he seeks to gain in this negotiation, but which, he begs leave to say, he hopes to accomplish upon the high principle of a strict adherence to the just rights and dignity of the sovereignty of the Texan nation.

From the portion of Gen. Hunt's note here given, it will be seen that the question was managed with competent skill. The remaining part was not less manly, open, and respectful. Mr. Forsyth replied as follows:—

DEPARTMENT OF STATE, WASHINGTON, August 25, 1837.

The undersigned, Secretary of State of the United States, has had the honor to receive the note of his Excellency General Hunt, Envoy Extraordinary and Minister Plenipotentiary of Texas, dated the 4th instant, proposing a negotiation for the purpose of annexing that country to the United States.

That communication has been laid before the President, who has considered it with just sensibility. In giving to the undersigned instructions to present in reply a prompt and decisive indication of the course it has been necessary to adopt, the President indulges the confident expectation that no unfriendly spirit toward the Government or the people of Texas will or can be imputed to the United States.

Neither the duties nor the settled policy of the United States permit them to enter into an examination of the accuracy of the historical facts related by General Hunt, nor to allow them, if even admitted to be correct, to control the decision of the question presented by him. The United States were foremost in acknowledging the independence of Mexico, and have uniformly desired and endeavored to cultivate relations of friendship with that power. Having always, since the formation of their Government, been exempt from civil wars, they have learned the value of internal quiet, and have consequently been anxious yet passive spectators of the feuds with which their neighbors have been afflicted. Although, in the controversy between Texas and Mexico, circumstances have existed and events have occurred peculiarly calculated to enlist the sympathies of our people, the effort of the Government has been to look upon that dispute also with the same rigid impartiality with which it has regarded all other Mexican commotions.

In determining with respect to the independence of other countries, the United States have never taken the question of right between the

contending parties into consideration. They have deemed it a dictate of duty and policy to decide upon the question as one of fact merely. This was the course pursued with respect to Mexico herself. It was adhered to when analogous events rendered it proper to investigate the question of Texan independence. That inquiry was made with due circumspection, and the result was not arrived at until its probable consequences had been accurately weighed. The possibility of a collision of interests, arising, among other causes, from the alleged superior aptitude of the climate and soil of Texas for the growth of some of the staples of the United States, was not overlooked. A sense of duty and a reverence for consistency, however, it was considered, left this Government no alternative, and it therefore led the way in recognising Texas. A hope was certainly entertained that this act and the motives that conduced to it, even if no other considerations were to have influence, would point out to the Government of Texas the propriety not only of cherishing intimate and amicable relations with this country, but of abstaining from other connections abroad which might be detrimental to the United States. Apart from this, however, it was presumed that Government would enter upon the execution of the intentions intimated by its envoy extraordinary with respect to connections with foreign powers with a full understanding of the just and liberal commercial stipulations existing between the United States and other nations. A pervading principle of those compacts is impartial treatment of the citizens, vessels, and productions of the parties in their respective territories. As it was not to be believed that the commercial allies of the United States would swerve from their engagements, no apprehension was felt that the interests of this country would suffer from the arrangements which Texas might enter into with them.

The question of the *annexation* of a foreign independent State to the United States has never before been presented to this Government. Since the adoption of their Constitution, two large additions have been made to the domain originally claimed by the United States. In acquiring them, this Government was not actuated by a mere thirst for sway over a broader space. Paramount interests of many members of the Confederacy, and the permanent well-being of all, imperatively urged upon this Government the necessity of an extension of its jurisdiction over Louisiana and Florida. As peace, however, was our cherished policy, never to be departed from unless honor should be perilled by adhering to it, we patiently endured for a time serious inconveniences and privations, and sought a transfer of those regions by negotiations and not by conquest.

The issue of those negotiations was a conditional cession of these countries to the United States. The circumstance, however, of their being colonial possessions of France and Spain, and therefore dependent on the metropolitan Governments, renders those transactions materially different from that which would be presented by the question of the annexation of Texas. The latter is a State with an independent Government, acknowledged to be such by the United States, and claiming a territory beyond, though bordering on, the region ceded by France in the treaty of the 30th of April, 1803. Whether the Constitution of the United States contemplated the annexation of such a State, and, if so, in what manner that object is to be effected, are questions, in the opinion of the President, it would be inexpedient, under existing circumstances, to agitate.

So long as Texas shall remain at war, while the United States are at

peace with her adversary, the proposition of the Texan minister plenipotentiary necessarily involves the question of war with that adversary. The United States are bound to Mexico by a treaty of amity and commerce, which will be scrupulously observed on their part so long as it can be reasonably hoped that Mexico will perform her duties and respect our rights under it. The United States might justly be suspected of a disregard of the friendly purposes of the compact, if the overture of General Hunt were to be even reserved for future consideration, as this would imply a disposition on our part to espouse the quarrel of Texas with Mexico,—a disposition wholly at variance with the spirit of the treaty, with the uniform policy and the obvious welfare of the United States.

The inducements mentioned by General Hunt for the United States to annex Texas to their territory are duly appreciated; but, powerful and mighty as certainly they are, they are light when opposed in the scale of reason to treaty-obligations and respect for that integrity of character by which the United States have sought to distinguish themselves since the establishment of their right to claim a place in the great family of nations. It is presumed, however, that the motives by which Texas has been governed in making this overture will have equal force in impelling her to preserve, as an independent power, the most liberal commercial relations with the United States. Such a disposition will be cheerfully met in a corresponding spirit by this Government. If the answer which the undersigned has been directed to give to the proposition of General Hunt should unfortunately work such a change in the sentiments of that Government as to induce an attempt to extend commercial relations elsewhere, upon terms prejudicial to the United States, this Government will be consoled by a consciousness of the rectitude of its intentions, and a certainty that, although the hazard of transient losses may be incurred by a rigid adherence to just principles, no lasting prosperity can be secured when they are disregarded.

The undersigned avails himself of the occasion to offer General Hunt assurances of his very distinguished consideration.

JOHN FORSYTH.

GENERAL MEMUCAN HUNT, &c.

The rejoinder of General Hunt is dated September 12, 1837. The reasons assigned by the Secretary of State for declining the overture of annexation are reviewed with delicacy and frankness. The fact is referred to, that ex-President Jackson had gone to such length as to offer the Governorship of Texas to the late Governor Hutchins G. Burton, of North Carolina, under the belief that a treaty had been concluded with Mexico, by Mr. Butler, *chargé d'affaires*, for the cession of the territory of Texas to the United States, and that Spain was then as much at war with Mexico as the latter was with Texas at the time of the proposed negotiation. Various points were touched upon, earnestly combating the views of the Secretary of State alleged as influencing the decision of the President. The following paragraph is copied entire:—

The Hon. Mr. Forsyth will pardon the undersigned for expressing the opinion, which appears to him undeniable, that a sovereign power has as

perfect a right to dispose of the whole of itself and a second power to acquire it, as it has to dispose of only part of itself and a second power to acquire that part only; and that the acquisition of the whole territory of a sovereign power could no more be objected to on the ground of constitutional right than the acquisition of a part of that territory only. The material difference alluded to by Mr. Forsyth, between the annexation of independent Texas by her own voluntary act, and the acquisition of the colonial provinces of Louisiana and Florida by the act of their respective Governments, is acknowledged. But the difference is conceived to be altogether in favor of the former, for the reason that the annexation of Texas would be an act of free will and choice on the part of the Government and people who own and actually occupy the very territory proposed to be transferred, while the latter would seem to have been the result of an arbitrary right on the part of the metropolitan Governments to dispose of the territorial possessions ceded by them, without regard to the wishes of the inhabitants residing thereon.

One more paragraph is here quoted from this document :—

The efforts which the Government of the undersigned is making to open a commercial intercourse with Great Britain and France, it is believed, will succeed. Apart from the disposition of those two powers to avail themselves of the great advantages which must result to every nation with which Texas may form intimate commercial relations, it is believed that they, as well as the United States, cherish a liberal sympathy for a people who have encountered the most cruel treatment at the hands of Mexico,—a nation which has so little regarded the laws of civilized countries, in prosecuting a savage war of extermination against the citizens of the Government of the undersigned, and that, too, against a people who proudly claim the realms of Britain and France as the homes of their ancestry. And the undersigned expresses a belief that the crowned heads of England and France, and their majesties' ministers, will not be without some feelings of gratification when they become apprized of the successful civil and military career (although on a limited scale, it is true) of the descendants of British and French progenitors in Texas. General Houston, the President of the Republic, is a native of the United States, but descended from English and Irish parentage. He commanded at San Jacinto, in one of the best battles, it is supposed, which have been fought since the introduction of fire-arms. The valiant General Mirabeau Lamar, Vice-President of Texas, who commanded the cavalry in the same fight, is likewise a native of the United States, but claims his descent, with pride, from the French. And the undersigned again avows his persuasion that the crowned heads of England and France, and their majesties' ministers, will not be altogether insensible to feelings of sympathy and regard for a people whose Government is headed by individuals boasting their descent from the distinguished races over which their majesties preside.

With this rejoinder all correspondence between the two Governments relative to annexation ceased for the time-being. Mr. Forsyth did not live to witness the consummation of the measure within eight years afterward. Gen. Hunt* was more fortunate. He

* Gen. Hunt's name has been mentioned in the newspapers as among the distinguished men of this country who died in the year 1856.

had the gratification to see the two national flags united,—Texas merely adding one star more to the galaxy of States represented on the proud emblem of the American Union.

The result of the Presidential election in 1840, displacing Mr. Van Buren and his adherents from power, was deeply mortifying to Mr. Forsyth, who was in all respects identified with the administration. On the 4th of April, 1841, President Harrison died, amidst all the splendors and attractions of the White House, after one month of the highest authority; and on the 21st day of October, 1841, the Hon. John Forsyth passed away, at the age of sixty years,—too soon for his country, but long enough to see the emptiness of ambition and earthly renown.

The demonstrations of respect to his memory were general throughout the Union, regardless of party distinctions. All mourned that a master-mind had been quenched. The grief of personal friends was intense,—for he had many such; that of his domestic circle could find no expression in words. In his youth, Mr. Forsyth had married a daughter of Josiah Meigs, formerly President of Franklin College. Several children survived him, among whom is the Hon. John Forsyth, the present minister of the United States to reside near the Government of Mexico,—and Julia, wife of the Hon. Alfred Iverson, Senator in Congress from Georgia. Mrs. Forsyth died in Columbus some few years ago, highly respected for her excellent qualities.

Before his death, the Legislature of Georgia had named a county in honor of Mr. Forsyth. The county site of Monroe also bore his name thirty years ago. A monument has been ordered to be erected over his grave at Washington City, at the expense of the State of Georgia. Surely these testimonials from the people whom he had served will ever prove their abiding respect for his character.

More might be said, and, indeed, something more ought to be said, of his gifts and qualifications as a public speaker. His very looks accomplished a great deal. A glance of the eye, a motion of the finger, a wave of the hand, a curl of the lip, or a twitch of that Roman nose, would kill or cripple at the will of the speaker. All glowed with life. The person of Mr. Forsyth was the most handsome of his sex. Usually great men—men of great intellect, great in action—are not the most beautiful in their features, the most admired by the ladies; but Mr. Forsyth was an exception. His form was classical,—nose, chin, mouth, forehead, and every thing that contributed to expression. He was neither too light

nor too heavy for grace of manner. As to his voice, description is impossible. It was like the trumpet, clear and piercing in its tones, and yet soft as the organ. No orator in the United States possessed such a fine command of the keys and modulations whereby the heart is subdued at the will of the orator. His supply of the best words was inexhaustible. In this respect he very much resembled Lord Erskine, and was perhaps even his superior,—though, unfortunately for the world, Mr. Forsyth lacked the genuine, all-pervading sympathies which animated the bosom while they consecrated the labors of Lord Erskine. Had he been less a man of the world, less indoctrinated in the etiquette and levity of courts, less inclined to fashionable life and its heartless formalities, he would have been more of a public benefactor, more deeply entwined in the affections of men. Then he would have risen to the sublime heights of passion in debate, with the fearless, imperial heart of humanity to bear him, with Patrick Henry, into the upper world, to chastise and humble the proud, and exalt virtue in its meek and unobtrusive garb.

But Mr. Forsyth was not equal to this achievement. His instincts were not with the masses of men. He was faithful to his trusts, because it was impossible for him to do a base act. He was also courteous and obliging in his personal relations: still, he had a diplomatic element in which he loved to revel, and which yielded his chief enjoyment. Beyond this, life was measurably insipid; nor is it certain that the philosophy of Bolingbroke or the morals of Chesterfield contributed to his happiness as a man. But, if Mr. Forsyth had defects, (and he would be more than mortal to be exempt,) let it be remembered that the sun has spots which do not mar his brilliance. It may be centuries before such a man shall again exist,—one so exuberant in chivalry, matchless in debate, and fascinating in society. And here let the reflection be indulged, that the life of Mr. Forsyth was in great jeopardy on one occasion at least, when, resorting to the code of honor, he measured small-swords with his antagonist, (Col. Williams,) who wounded him in the neck. The escape permitted a bright name afterward to appear on the roll of fame.

This memoir could not be more appropriately closed than by a quotation from "The Cabinet,—Past and Present," which originally appeared in a New Orleans paper, from a gentleman* whose pen has often gratified the public:—

* Hon. J. F. H. Claiborne, formerly a Representative in Congress from Mississippi.

The late John Forsyth was one of the most accomplished men of his time. As an impromptu debater, to bring on an action or to cover a retreat, he never had his superior. He was acute, witty, full of resources, and ever prompt,—impetuous as Murat in a charge, adroit as Soult when flanked and outnumbered. He was haughty in the presence of enemies, affable and winning among friends. His manners were courtly and diplomatic. In the times of Louis XIV. he would have rivalled the most celebrated courtiers; under the dynasty of Napoleon he would have won the baton of France. He never failed to command the confidence of his party; he never feared any odds arrayed against it, and at one crisis was almost its sole support in the Senate against the most brilliant and formidable opposition ever organized against an administration. With the ladies he was irresistible.

XVI.

THOMAS F. FOSTER.

THE people of Georgia have been too long and faithfully served by this gentleman to inquire, at this late day, by what title his name appears here. But some account of him not before published may be given, of sufficient interest to induce a perusal.

His father, Col. George Wells Foster, a true gentleman of the old school, removed from Virginia to the State of Georgia about the year 1790. THOMAS FLOURNOY FOSTER, the subject of this memoir, was born in the town of Greensboro, on the 23d day of November, 1796. He received the rudiments of his education at the male academy in Greensboro, first under the tuition of Parson Ray, and afterward under William W. Strain. He thence entered Franklin College, and graduated in 1812. After reading law a while with Matthews Wells, Esq., in his native village, he attended the law-lectures at Litchfield, Connecticut. In 1816 he was admitted to the bar, and opened an office in Greensboro.

His habits of industry and great promptitude soon gained him an extensive practice. No lawyer was more zealous or better prepared in his cases, and no one was more faithful to his clients. Such was the estimation in which he was held by the people of Greene county, that they elected him a Representative in the Legislature for many years, in which body he was always a leading member. He had ability of a high order, an original, investigating mind, and great fluency in debate, united with a degree of self-con-

fidence which never failed him. With these advantages, success was certain. He was on the principal committees, and in that capacity was a hard-working man, besides doing his full share in almost every discussion which arose. Such was his vigilance and comprehension of measures that nothing escaped him. He was sure to detect fallacies of any kind, and to show no forbearance to error or party bias, come from what quarter it might. Hence he was dreaded for his talents, but respected for his integrity. "The gentleman from Greene" was on the floor, talking more rapidly, and with more hard sense, than any other member could possibly do, and much oftener. He was literally the *Speaker* of the House; for the presiding officer to whom that distinction is applied really *speaks* less—it is his duty to speak less—than any other member.

In regard to the speaking-propensity of Col. Foster the author heard an anecdote thirty years ago, which he begs to relate. A plain citizen from a distant county visited Milledgeville about the commencement of the session of the Legislature, and on his return home a neighbor inquired about the organization, and asked who was elected Speaker of the House of Representatives. The artless though sensible reply was, that "a little, frisky, hard-favored, pop-eyed man from Greene was the Speaker; for he was nearly all the time *speaking*, while the man which he called Mr. Speaker, high up in a chair, said nothing but, *The gentleman from Greene.*"

If the author had a copy of the House Journals during the sessions that Col. Foster served, he would no doubt be able to prepare a record showing great intelligence, activity, and patriotism in the measures supported by him, the bills introduced, &c. But that opportunity is not enjoyed; and all further notice of his career in the Georgia Legislature will be omitted, in order to follow him in a more exalted sphere.

In 1828, Col. Foster was elected a Representative in Congress, and took his seat on the first Monday in December, 1829, with his colleagues, Hon. Charles E. Haynes, Henry G. Lamar, Wiley Thompson, James H. Wayne, and Richard H. Wilde. After successive re-elections, he continued six years in Congress,—pretty good evidence that his constituents approved his course. The author received from Col. Foster himself, soon after their delivery, copies of most of his speeches, two of which he has before him,—one in regard to the missionaries, and the other on the removal of the deposits. As a specimen of his style and method of argumentation, extracts are deemed proper, which will be the more welcome as showing to *younger politicians* the doctrines then main-

tained, of which Georgia has ever afforded an example when *practical sovereignty* was required to vindicate her rights.

From the speech of Col. Foster, delivered June 11, 1832, the following is extracted :—

MR. PENDLETON, of New York, presented to the House of Representatives a petition from sundry inhabitants of Dutchess county, New York, praying Congress to adopt speedy and effectual measures to enforce the decision of the Supreme Court of the United States, in the case of the missionaries Worcester and Butler, now imprisoned in the penitentiary of Georgia, under a judgment of a Superior Court of that State ; which petition Mr. P. moved to refer to a select committee, with instructions to report a bill containing the following provisions :—

1. That whenever the Supreme Court shall have declared a judgment of a State court, by which a party is in confinement, to be erroneous, and the party is not forthwith set at liberty, any Judge of the Supreme or of a District court shall be authorized to issue an *habeas corpus* to bring the prisoner before him in order to his discharge.

2. To repeal that part of the Judiciary Act which requires the case to be once remanded to the State court, and to require the Supreme Court at once, and in the first instance, to execute judgment.

MR. PENDLETON having addressed the House in support of these resolutions, Mr. FOSTER, of Georgia, replied as follows :—

MR. SPEAKER :—The memorial presented by the honorable gentleman from New York (Mr. Pendleton) is of precisely a similar character with that of many others which have been addressed to the House during the session, and which have all been referred to the Committee of the Whole on the State of the Union. It was therefore to have been expected that this would have been disposed of in the same way. But the gentleman is desirous of pursuing a different course, and asks a reference to a special committee, with special instructions to report a bill containing particular provisions. I do not pretend to except to the motion : it was not only the gentleman's *right*, but, if it was the wish of the memorialists, or was required by the nature of the complaints, it was his *duty* to submit this proposition. In presenting it, however, he has accompanied it with some remarks which, as a representative of the people of Georgia, I cannot suffer to pass unnoticed.

The honorable gentleman has thought proper, in support of his motion, to enter into an investigation of the powers of the General Government, and has, I frankly admit, sustained his views by weighty and highly-respectable authorities. I shall imitate his example ; and, in controverting his positions, I too will refer to the records of past times, and present for the consideration of the House, facts as well as arguments, drawn from sources entitled to the highest credit.

The gentleman has favored us with his views of the structure of this Government, and of the manner in which the Federal Constitution was formed. He espouses the doctrine which has long been a favorite one with a large party in our country,—that the Constitution was formed by the people of the United States as an *aggregate body* ; and, to establish his proposition, he resorts to that expression in the preamble to the Constitution, “ We, the people,” which has been so often referred to for the same purpose. It is worthy of remark that this argument was first advanced by those who were opposed to the adoption of the Constitution. At the

time these words were inserted, the conclusion which has since been drawn from them never once occurred to the eminent men who were engaged in the formation of this instrument: but the sagacity and foresight of Patrick Henry suggested that, in after-times, this phrase might be seized on as a pretext by those who were anxious to establish this as a great national government; and subsequent events have but too well verified the accuracy of the presentiment.

Col. Foster then goes on to examine the proceedings of the Convention, amendments proposed, reasons urged by various delegates, the judicial power, its regulation, and the resulting authority of the States to judge in their separate character, each for itself, of infractions, &c.,—all evincing very great research, and proving him to be a sound lawyer and mature statesman. After quoting resolutions from the Legislatures of Virginia, Kentucky, Ohio, and New York, Col. FOSTER continues:—

There is, however, Mr. Speaker, one other State which has recently adopted resolutions containing sentiments still more decisive and appropriate to the present investigation. I hold in my hand certain resolutions of the Legislature of Massachusetts, which, if I am not greatly mistaken, carry the doctrine of State Rights as far as Georgia or any other State has ever contended for. Sir, it is with peculiar pleasure that I read such sound and wholesome doctrines coming from this ancient and venerable Commonwealth.

Sir, in the discussion which took place in this House two years ago, on the bill providing for the removal of the Indians, I maintained that *that* article of the treaty of Holston between the United States and the Cherokees, which guaranteed to the Indians the possession of lands lying within the chartered limits of Georgia, was unconstitutional and void, and that Georgia had the right so to consider it. Strongly as this doctrine was at that time contested, I was sensible that nothing but a good *endorser* was wanting to give it currency. Little did I promise myself that I should so soon have an endorser of such unquestionable character. Who will now venture to controvert principles coming to us with the broad seal of this renowned Commonwealth?

The controversy with regard to our northeastern boundary between Maine and New Brunswick is familiar to every gentleman here, as are the negotiations which have been carried on between this and the British Government, and the decision of the King of the Netherlands, the arbiter selected by the two Governments to settle the disputed boundary. In regard to the decision by which a portion of territory heretofore claimed by Maine and Massachusetts has been adjudged to belong to Brunswick, the Legislature of Massachusetts

"Resolved, That the Government of the United States has no constitutional right to cede any portion of the territory of the States composing the Union to any foreign power, or to deprive any State of any land or other property, without the consent of such State previously obtained; and that any act purporting to have such effect would be wholly null and void, and in no way obligatory upon the Government or the people of the said States."

Sir, Georgia has never gone farther than this in the assertion of her

rights. She has only carried out into practice the principles here laid down. Exercising this right of judging for herself, when the Federal Government has transcended its constitutional powers, she has regarded its acts done in violation of the Constitution as *null and void, and in no way obligatory upon her Government or people*. And in future, whenever our brethren of Massachusetts shall be disposed to indulge in those censures and denunciations of us of which they have been heretofore so unsparing, it is to be hoped that they will first refer to the records of their own Legislature, and remember, while they are condemning us, what a judgment they are pronouncing upon themselves.

But let us hear the sentiments of Maine on the subject which has so excited Massachusetts. Among the proceedings of her Legislature of 1831 we find the following resolution:—

“That the Convention (treaty between the United States and Great Britain) of September, 1827, tended to violate the Constitution of the United States and to impair the sovereign rights and powers of the State of Maine, and that *Maine is not bound by the Constitution to submit to the decision which is, or has been, made under that Convention.*”

Still later, and only during the past winter, we find the Legislature of this State following up these principles by adopting, among others, the following resolution:—“*That if there is an attribute of State sovereignty which is unqualified and undeniable, it is the right of jurisdiction to the utmost limits of State territory.*” Sir, comment here is unnecessary. These declarations are so plain that he who runs may read; and I most sincerely hope that the principles thus asserted by Massachusetts and Maine will be maintained by every State in the Union. This Government does not possess the power of ceding away *either the property or jurisdiction* of any one of the States without its consent; and a treaty entered into for this purpose is not, and cannot be, binding on the State whose territory is thus disposed of, or whose jurisdiction is thus attempted to be limited.

I am aware, Mr. Speaker, that the expressions of opinion or the reasoning of the Southern States on these points will have very little weight with many gentlemen here; but it is due to the State of Virginia, the *Old Dominion*, that ancient Commonwealth to which we are so much indebted for the propagation of sound political principles, to show how steady and uniform she has been in her course. I therefore beg leave to read one or two resolutions passed by her Legislature in the year 1828:—

“*Resolved, That the Constitution of the United States being a federative compact between sovereign States, in construing which no common arbiter is known, each State has the right to construe the compact for itself: That in giving such construction each State should be guided, as Virginia has ever been, by a sense of forbearance and respect for the opinions of the other States, and by community of attachment to the Union, so far as the same may be consistent with self-preservation and a determined purpose to preserve the purity of our republican institutions.*”

These resolutions were preceded by a report, setting forth in strong language those *State-Right* doctrines which, in '98, Virginia was among the first to advance, and which, it is hoped, she will be the last to relinquish.

Considering the intimate relationship in which my own State stands to the present discussion, I shall be pardoned, Mr. Speaker, for referring

to her history. In the year 1791, the case of Chisolm's executors against that State, to which the honorable gentleman from New York (Mr. Pendleton) has referred, was brought in the Supreme Court of the United States. And here, sir, we are furnished with testimony of the early disposition of this tribunal to assume powers not intended to be conferred on it. When the Constitution was framed, the idea of clothing this court with jurisdiction over causes to be brought against a State, so far as we can learn from the Journals of Debates, was never even suggested. It was certainly not contemplated by the Convention, else it would have been expressed in the Constitution. But we have stronger evidence that it was not intended. That part of the Constitution giving the Supreme Court jurisdiction of controversies between two or more States, between a State and citizens of another State, and between a State, or the citizens thereof, and foreign States, citizens, or subjects, was zealously and vehemently opposed by Mr. George Mason in the Virginia Convention. And what were the replies of Mr. Madison and Mr. John Marshall?—replies which have been so frequently referred to of late, and which ought from the beginning to have put this question at rest. Mr. Madison says, in the most explicit terms, that

"The jurisdiction in controversies between a State and citizens of another State is much objected to, and perhaps without reason. *It is not in the power of individuals to call any State into court.* The only operation it can have is, that if a State should wish to bring suit against a citizen it must be in the Federal court. This will give satisfaction to individuals, as it will prevent citizens, on whom a State may have a claim, being dissatisfied with the State courts; and, *if a State should condescend to be a party*, this court may take advantage of it."

This is the opinion and (as remarked with regard to another subject) the testimony of Mr. Madison, one of the principal actors in the formation of this instrument. Had it been intended to confer this power, Mr. Madison would have candidly admitted it, and not attempted to palm a delusion upon the people of his own State. But let us hear the opinion of his great coadjutor, Mr. Marshall:—

"With respect to disputes between a State and citizens of another State, the jurisdiction has been decried with unusual vehemence. *I hope no gentleman will think that a State will be called at the bar of the Federal court.* Is there no such case at present? Are there not many cases in which the Legislature of Virginia is a party and yet the State is not sued? *It is not rational to suppose that the sovereign power will be dragged before a court.* The intent is to enable States to recover claims of individuals residing in other States."

Sir, could words be plainer or more explicit? Could language have been employed better calculated to quell the fears and quiet the apprehensions of the most jealous? Could it then have been believed that in less than five years suits would have been brought against one of these States by individuals? that individuals would have called a State into court, and that the Supreme Court would have sustained jurisdiction? Yet such was the case with several of the States, and among them was the case already mentioned,—of Chisolm's executors against the State of Georgia. But Georgia knew too well the jurisdiction intended to be conferred on the Supreme Court. She knew her rights,—the rights of sovereignty which she had retained and those which she had delegated; and acting upon the right for which I have been contending, of con-

struing the Constitution for herself and of determining on its violations, she would not "*condescend to be a party*" to the cause; and she was actually proceeding to take measures for the protection of her sovereignty, when her sister States, conscious that she was right, and that the court was attempting to exercise a power not conferred on it, interposed, and, by an amendment to the Constitution, expressly provided that "the judicial power of the United States shall not extend to the commencement or prosecution of suits against one of the States by an individual." Yes, sir: so well satisfied were the other States that Georgia was right in resisting this attack upon her sovereignty, that they even framed this amendment to the Constitution, so as to apply to cases already commenced and then pending. I ask, in the most perfect confidence, whether there could be a more decisive concession of the rights asserted and maintained by the State of Georgia.

The speech itself covers sixteen pages, closely printed in double column, and is a master-piece in the way of analysis and argumentation. The points to which Col. Foster addressed himself chiefly were,—

1. That the missionaries claimed to be citizens of Vermont, and, being *individuals*, could not call the State of Georgia to the bar of the Supreme Court, under the Constitution.
2. That the article in the treaty of Holston, by which the Government of the United States guaranteed the possession of the lands occupied by the Cherokees to that tribe of Indians, was void, as disposing of the territory of Georgia without her consent.
3. That the plea set up by the missionaries to the jurisdiction of the State court, resting upon the validity of the treaty of Holston, which recognised the Cherokee Indians as an independent nation within the chartered limits of Georgia, was insufficient, and that the Supreme Court had no power to reverse the decision of the State tribunal overruling that plea.
4. That the exercise of such power by the Supreme Court, or by Congress, was unauthorized by the Constitution, and would justify the State of Georgia, as a sovereign judge, in taking such measures as she might deem necessary to protect her rights from aggression.

The grounds were well taken and well supported by Col. Foster, as his speech abundantly proves. The extract given is only a specimen of his reasoning and of his method of applying authorities; but it does not contain the strength of the argument. It was a masterly production; and, had he afforded no other evidence of his ability and learning, this single speech deserves to enroll him among the enlightened statesmen and sound constitutional lawyers of the age.

Another speech will be referred to, on the deposit-question. It will be recollected that in September, 1833, President Jackson issued his Cabinet paper, directing Mr. Duane, Secretary of the Treasury, to remove the public money from the Bank of the United States to certain State banks on deposit. The Secretary declined obeying the order, and was removed from office. Mr. Taney, his successor, signed the necessary order, and the deposits were forthwith transferred,—say twenty millions of dollars or thereabout,—which compelled the United States Bank to curtail its discounts and press its debtors, all ending in a frightful panic.

At the ensuing session of Congress a bill was reported “regulating the deposit of the money of the United States in certain State banks.” On the 20th June, 1834, the bill being under consideration, Col. Foster addressed the House of Representatives, in a speech of considerable length and of marked ability, in opposition to the measure. He maintained that the bill gave the public purse into the custody of the President, who, already having the sword, would be clothed with power forbidden by the Constitution. The following is an extract from the speech:—

Mr. FOSTER would present another case, for the purpose of carrying out the doctrines of the honorable gentlemen from Alabama, (Messrs. Clay and Mardis.) Suppose a citizen of that State should borrow from the United States Bank ten thousand dollars, giving his note, and, failing to pay when the note became due, should be sued by the bank. And suppose the borrower should resist the payment of the note on the ground of the unconstitutionality of the bank-charter: would they consider the plea sufficient to release the debtor from the payment of the money thus borrowed? But even if they should determine that by reason of the unconstitutionality of the charter an action could not be supported on the obligation thus given to the bank, what would they say of the *morality* of the man who could set up such a defence? Such an act would meet the indignant scorn and contempt of every honest man. And where was the difference between a Government and an individual in this respect? For himself, he was not well versed in that code of morals which, while it exacted from individuals a rigid discharge of their obligations, considered the solemn pledge of a Government as a mere commonplace thing, to be sported with at pleasure. He placed a higher estimate on national faith. He considered Governments bound by the same rules of common honesty and moral obligation as the private man; and, so long as he had any participation in the public councils, he should endeavor to act on this principle. It was this principle which had influenced his vote with regard to the restoration of the deposits. That same morality which would oblige him as an individual to discharge a debt contracted with the bank would impel him as a public man to redeem the faith of the Government so solemnly pledged to it.

This pledge alone, Mr. FOSTER said, would restrain him from voting for the bill now before the House, or any other bill for depositing the public

money anywhere but in the United States Bank, during the continuance of its charter, provided it complied with its contract for the safe keeping and transfer of the public money. Gentlemen had dwelt very earnestly upon the mischief and ruin which would be produced at the end of two years by retaining the deposits, unless the charter of the bank were renewed. Mr. F. had the same reply to make to this argument that he made to gentlemen who urged him to vote for the renewal of the bank-charter to prevent derangement of the currency, commercial embarrassments, and general distress. Even if it were certain that all these results would be the consequence of a refusal to renew the charter, his vote would be the same. He should consider this renewal as a violation of the Constitution, as already remarked; and such violation he could not commit on grounds of expediency. So with regard to the bank-charter,—the contract between the Government and the corporation. He could not go into the consideration of the mischief which might grow out of a fulfilment of the stipulation of the Government with respect to the deposits: that was a matter for the framers of the charter to have considered: it was enough for him that such is the contract. Here is the bond of the Government; and, even though executed to such a “monster” as the bank, so far as it depended on him it should be faithfully kept.

Mr. FOSTER objected to this bill, also, because it was giving the sanction of Congress to what he considered the illegal act of the Executive in removing the deposits. But, more than this, it not only acquiesces in, but carries out, the principles assumed by the President in his “Cabinet paper,” and more distinctly claimed in a document which has acquired some notoriety, commonly called the PROTEST. What were those principles? Why, that the Secretary of the Treasury is an Executive officer, and therefore entirely subject to Executive control; and that whatever power is conferred or duty imposed on the Secretary by Congress is to be executed under the supervision and direction of the President. The President has indeed gone further with regard to the public money, and claims not only that its custody belongs to the Executive Department, but that “Congress cannot take it out of the hands of that Department without an assumption of Executive power and a subversion of the first principles of the Constitution.”

Mr. F. did not intend to enter here into an examination of these extravagant and alarming pretensions: the short time which he felt himself justified in occupying, at this late hour of the session, would not allow him to do so, nor was it at all necessary for his present purpose. He merely wished to call to the recollection of the House the ground assumed by the President in affirming his right to control the Secretary of the Treasury in the exercise of whatever power was conferred on him by Congress, and the avowal of his determination to exercise this right, and then to point out the sanction we are called on to give to this claim of power. In the first section of the bill under consideration the Committee of Ways and Means propose to provide “that it shall be the *duty of the Secretary of the Treasury to select and employ*, as the depositories of the money of the United States, such of the banks incorporated by the several States,” &c.

Here, then, with fair notice of the right asserted by the President, the committee propose so to regulate the deposits of the public moneys as to place them entirely within his custody and control. It was indeed somewhat remarkable that, with this claim of power staring them in the face, and with the professions so repeatedly made that the great object was to

guard the public treasury and place it beyond Executive interference, the committee should have thought proper to apply to the Executive to prescribe these safeguards and suggest the regulations necessary to be made. Yes, sir: the committee state in their report that they "deemed it proper, in a matter of so much importance, to ascertain from the Secretary of the Treasury *his opinion and views* in regard to the regulations proper to be adopted in the employment of the State banks as the depositories of the public money;" and they report to the House the Secretary's letter upon the suggestions of which this bill is founded; and as, by the new Executive creed, the Secretary is entirely under the control of the President, this letter has doubtless received *his* approbation: so that we are now furnished with an *Executive project* for regulating the custody of the public money, which is to be matured by Congress; and, as might have been expected, the Executive, in perfect consistency, contemplates by this project such regulations as will leave the depositories to *its* selection and employment, and thus secure the custody which it claims.

After Col. Foster retired from Congress in 1835, he resumed the practice of his profession with his usual ardor, and was employed in most of the important causes of his circuit, and in other parts of the State when specially retained. His pecuniary condition being independent, he was enabled to support that hospitality so well suited to his character and the graceful manner in which he entertained his friends. In 1840, on the invitation of the Whigs of Alabama, he attended the mass convention held at Tuscaloosa, the first demonstration on a large scale in the Southwest which foretold the success of Gen. Harrison. The gathering of the people was very large,—several thousand; the array of banners, emblems, and other campaign-devices, then attractive for their novelty, rendered the occasion one of great popular interest. The Hon. John S. Hunter, a Van Buren elector in 1836, presided. The great men of the Whig party in Alabama were there,—among them the Hon. Arthur F. Hopkins and Harry I. Thornton, formerly Judges of the Supreme Court; Governor John Gayle, now Judge of the United States District Court; Henry W. Hilliard, since a Representative in Congress, minister to Belgium, and Regent of the Smithsonian Institute; Hon. Benjamin F. Porter, Judge of the Circuit Court, and late Reporter of the Supreme Court; William M. Murphy, distinguished alike at the bar and on the hustings for argumentative oratory; William R. Smith, a Representative in the last Congress; J. W. L. Childers, since Mayor of Mobile,—a man of splendid eloquence, moving the masses at his will; and Joseph J. Hutchinson, of mirth-provoking wit and fearless determination, who, convinced of the emptiness of public honors, has since humbled his ambition at a holier shrine, and is now a presiding elder in

the Alabama Conference of the Methodist Episcopal Church, South, exerting great influence for good.

These were some of the leading men of Alabama, with whom Col. Foster was drawn in-fraternal association in a great party struggle. He was seated on the platform, and, on being warmly called by the audience, he was gracefully introduced by the President, and then proceeded to address the Convention for about one hour. He reviewed the state of parties in the country, the measures advocated by each, and dwelt considerably on the *vices* of Mr. Van Buren's administration, to which he attributed much of the distress then prevailing in the industrial pursuits of the people in all quarters of the Union. His speech was logical in its arrangement, delivered with animated self-possession, and had a strong effect on those who heard it. He received every attention from the committee of arrangements, and others who sought an introduction to him, which could have gratified a visitor from another State.

In 1841, Col. Foster was again elected a Representative in Congress, and served out his term with his accustomed ability. This was his last public service. In the mean time, though somewhat late in life, he had entered into matrimonial relations with Miss Gardner, of Augusta, a lady of great worth and intelligence, who contributed much to his happiness. Had he married a lady of her qualities at an earlier period, she might have exercised a gentle, restraining influence over his habits, and prevented that excess in the use of wine which was the only source of regret to his friends in his latter years. The author makes this allusion from no unkindness to the memory of a personal friend whom he highly valued, but with the design that the only blemish in the character of this talented and accomplished gentleman may serve as a caution to aspiring young men, who may feel justly proud if they can equal him in other respects.

In this connection the author makes free to quote from a letter which he received from that venerable and useful man, Rev. Lovick Pierce, of Columbus, to whom he had written on the subject:—

T. F. Foster was my brother-in-law; lived in my family more than twenty years; was one of the most companionable men ever made; had a good deal of pleasant humor about him. If any one living was examined with intimate knowledge of Col. Foster's ability and success at the bar, he would furnish a beautiful item in your proposed work. His contemporaries are nearly all, like himself, *dead*. Col. Y. P. King, of Greensboro, might aid in his case: they were raised together. As a lawyer, Col. Foster ought to be put a No. 1 man; and as a good man in all his natural

developments he was an exception. High life with great men led him to love wine to his injury.

The author is indebted to Col. King for a letter from which the following is an extract:—

Col. Foster was a man of *decided ability*, and, during the time he practised at the Ocmulgee bar, occupied a very high position as a lawyer. He was not a graceful speaker, but he possessed the foundation of all true eloquence,—strong, vigorous, common sense. He was at all times exceedingly courteous and gentlemanly to the bench and bar, punctual, high-minded, and honorable in all his dealings.

On the occasion of the death of Col. Foster, the Columbus bar held a meeting which testified to his amiable character and great professional ability. The press was warm in its praises, and the public mind in Georgia has long since settled his rank as a faithful public servant and a man of exalted qualities.

The author closes this memoir with an extract from a letter which he received from the late Senator Dawson in 1851, a tribute the more impressive, because death has since hallowed it:—

Col. Thomas F. Foster was admitted to the bar in 1816, and located himself in this place, (Greensboro,) was elected a member of the Legislature three or four times, (at an early day,) was elected a Representative in Congress three or four times, removed from Greensboro to Columbus in 1835, and died in the year 1847. But you can procure the resolutions on his death, &c. from the editors of the *Columbus Enquirer*.

Col. Foster, by his energy and talents, rose rapidly and successfully in his profession. He was a sound lawyer, and able in the discussion of legal questions,—also among the best jury-lawyers or advocates in the circuit. He was social, frank, honorable, &c. in his professional intercourse; had good humor, was engaged generally in his circuit in important cases, and had the confidence of his clients especially, and the regard and respect of the intelligent in all parts of the State. He was no ordinary man. I settled also in my native county in 1818, and was one of the colonel's competitors, and knew him intimately, individually, and professionally, and, if I had time to write out many anecdotes in our profession connected with himself, Longstreet, and myself, it would form an interesting chapter: but Judge Longstreet has a talent peculiarly suited for such a detail.

XVII.

CHARLES P. GORDON.

THIS gentleman was a native of Wilkes county, State of North Carolina, and was born in the year 1791. His father, Chapman Gordon, was a soldier in the Revolution, under the command of Captain Benjamin Cleaveland, and was engaged in the fiercely-contested action of King's Mountain,* October 7, 1780, on the borders of North and South Carolina.

The rudiments of his education were obtained in the neighborhood where he was born. He thence entered Dickinson College, at Carlisle, Pennsylvania, where he graduated with considerable credit in 1813. Returning to his native State, he read law with Judge Murphy, late Reporter of the Supreme Court, and was admitted to the bar in 1815. He located for practice in Wilkesboro, the county site of Wilkes, and was for a short time solicitor of the county. The only impediment to his early success was a diffidence of character which was constitutional with him. Modesty in his case, if not in every other, was the companion of merit. He was always retiring in his manners, though really of a social disposition. Except among his friends and intimate acquaintances, he was rather taciturn, and did not contribute his share of entertainment. He found it impossible to appear free and cheerful in the presence of strangers. Many an elevated mind knows how to sympathize with such timidity, such self-distrust.

While Mr. Gordon was at college, he formed an attachment which afterward induced him to revisit Carlisle, where he married Miss Barbara Galbraith, of that town, on the 10th day of June, 1817. In the year 1819 he removed from North Carolina to Georgia and settled in Eatonton, Putnam county, where he opened a law-office. His native modesty retarded his practice, and he remained briefless for about twelve months, all the while applying himself diligently to his studies, and being at his post for such business as might be offered him. He had never cultivated the art

* For a description of this battle see Wheeler's History of North Carolina, vol. ii. p. 104. The loss of the British and Tories was 1105 men; loss of the Whigs, 60

of pleasing the crowd,—of mixing familiarly with the people, and in manifesting all those tender civilities which pave the way to popular success. His heart was in the right place; his legal qualifications were respectable, his judgment sound; and yet his progress was slow at the bar. He obtained only a small share of practice in the face of such competition as he met in Stephen Willis Harris, Eli S. Shorter, and Milton Cooper, the leading members of the Eatonton bar. The opportunity of making his *début* at length came; and he at once convinced the profession and the public that his intellect was of the most solid, practical order, and that his course was onward. Business began to flow in upon him rapidly, and in less than ten years he ranked among the able men of the Ocmulgee bar, with a steadily-increasing practice.

Soon after the defeat of the Troup judges at the session of the Legislature in 1825, Judge Shorter, then resuming the practice of his profession, offered a partnership to Mr. Gordon, which was accepted. The firm of Shorter & Gordon was one of the strongest in the State. Their practice was large and profitable, and was not confined to their own circuit. In those days the Superior Court of Twiggs county attracted a full bar; and there might be seen at the same term such lawyers as Seaborn Jones, Lucius Q. C. Lamar, William H. Torrance, Samuel Rockwell, Eli S. Shorter, Christopher B. Strong, Oliver H. Prince, Edward D. Tracy, Robert A. Beall, Washington Poe, and others of established character in the profession. At one term—perhaps in 1826—Walter T. Colquitt and Hiram Warner, not then known to fame, were among those in attendance. When Judge Shorter omitted to visit Twiggs court, Mr. Gordon supplied his place at the bar.

A little circumstance may be here related as occurring in 1832, or thereabout, which, it was said, drove both Shorter and Gordon from that court.

A well-known citizen of Macon, considerably advanced in years and of great wealth, had retained Messrs. Shorter and Gordon as standing counsel. The litigation in which he was engaged was quite extensive, and some of it very curious. Among other possessions he owned land on opposite sides of the Ocmulgee, and had resolved to permit no fishing on his *property*, except by his leave. In the shad-season, several poor men residing in Bibb crossed over, fastened their canoes to the Twiggs side, and threw out their nets for fish in the river. To warm themselves, they kindled a fire on the bank, burned pine-knots, and probably increased their comfort by adding a few sticks of other wood to the flame. This was the

only "breaking the plaintiff's close and treading down his grass" for which his counsel were instructed to bring an action in Twiggs Superior Court, because it was for a trespass on the realty. The defendants employed a gentleman* who had just retired from the bench of the Southern circuit, and his partner† in the practice, whose modesty alone forced him afterward from the bar. The trial came on: the plaintiff, trembling with bodily infirmities, yet resolute, appeared in court with his title-papers, scowling vengeance on the poor fishermen who had dared to trample on his rights,— "the grass aforesaid."

The evidence showed a legal trespass of a very harmless character. Mr. Gordon argued the case for the plaintiff by stating the law, and maintaining that because the plaintiff was rich it was no reason why justice should be denied where a plain case of damage had been made out; for the law presumed damage whenever a trespass was committed. The effort was up-hill, a heavy strain to counsel, and the jury looked as if they had no disposition to encourage him by nods or smiles of approbation as he dwelt on the strong points of his argument. After Mr. Gordon closed, the junior counsel of the defendants launched forth in a vein of good-humored yet convulsive ridicule, and *blowed* the case so completely that the jury in five minutes returned a verdict for the defendants. Whereupon the plaintiff instantly paid the cost and entered an appeal, declaring that he would "give it to the rascals next time." While the appeal was pending in the *grass-fish* case, Mr. Gordon found it inconvenient to attend Twiggs court, and the action was transferred into the hands of a gentleman‡ who, as an advocate, (a former Representative in Congress,) evinced a high order of talent and very refined and uniformly-courteous address. His speech for the plaintiff was calmly logical, and was a fair specimen of Westminster deduction from small premises. The ex-judge, who was behind none of his compeers in blandness of manner, then touched the spark to the magazine of fun in the case, and away it exploded, causing much suppressed laughter, even at the expense of Mr. Gordon, who was accused of deserting his large practice in the court rather than appear in so pitiful a case or seeming to

* Hon. Thaddeus G. Holt, now of the city of Macon.

† Allen Fleming, Esq., then of Marion, but who for the last eight or ten years has been the Agent of the Marine and Fire Insurance Bank at Griffin.

‡ John A. Cuthbert, Esq., then editor of the Federal Union, now a resident of Mobile, Alabama, and late judge of the county court.

offend his rich client by a refusal,—a case so unequal, so much power on the one side and so much weakness on the other, as to remind one of a whale making war upon a minnow, if nature ever permitted such contests; a case where a rich man grudged a few straggling fish in a public highway (for all rivers in Georgia were such) to the poor families who looked to it for their daily support. The special jury readily gave a concurring verdict for the defendants. A motion was made for a new trial, on which a rule *nisi* was granted, and taken to the Convention of Judges, who advised a dismissal of the rule. Thus terminated the case, and through it the services of Mr. Gordon in the only court where the author heard him speak.

The manner of Mr. Gordon before the jury was sometimes very boisterous: that it was habitually so, the author cannot affirm. Why he adopted this method of address may be accounted for on the principle that one extreme usually begets another. He was constitutionally diffident, as has been elsewhere remarked; and, to overcome that barrier, he wrought himself into an artificial passion which, as it glowed, gave impetus and activity to his intellect. He found great assistance in this way. There is more philosophy in it, more hidden power, than occurs to a mere spectator. To say that Mr. Gordon was earnest would be a tame expression. He rose to a high pitch of excitement, thundered and gesticulated so vehemently that it seemed he was willing to upset creation rather than his client should be wronged. Nor would his sincerity be suspected; for his soul, the very muscles of his face, and his whole manner, united in proclaiming that he was on the side of truth, reason, and justice, and, of course, that his adversary was in a false position. At all events, he was frequently victor in cases very forbidding in the commencement. He was above all tricks or duplicity in his profession. What he aimed to do he accomplished boldly and openly, yet with a manner so engaging, so kind, so utterly free from ill-nature or petulance, as to endear him to his brethren.

Mr. Gordon was several times elected in succession to both branches of the Legislature from Putnam county, in each of which he occupied a high rank for talents and business-qualifications. The author regrets that he has not a copy of the journals at hand from which to trace his public career. Such was his admitted skill, that he was selected by the House of Representatives to prosecute articles of impeachment against a lottery-commissioner who was placed on his trial before the Senate for fraud and mal-

practice in office. His speech in summing up the evidence and authorities is said to have been a masterly performance, and sufficient alone to class him with the soundest lawyers and most intelligent legislators of the day. Having no report at command, the author can only speak from reliable tradition on the subject.

The author could not do justice to the character of Mr. Gordon as fully by remarks of his own as by quoting those of a correspondent,* who, from his relation and opportunities, could give more complete testimony:—

He had an unblemished moral character; was a member of the Presbyterian Church; was among the first to favor the great temperance-reformation in this State. He was a true and devoted friend, fond of the endearments of domestic life, and spent much of his leisure time in social intercourse with his wife and children. He had a taste also for agricultural and horticultural pursuits, and was among the first to introduce and cultivate successfully the vine in Middle Georgia. He succeeded admirably in making very superior wine from grapes grown by himself at Eatonton, where he had a small vineyard, which occupied much of his hours of leisure and recreation when freed from the labors of the circuit. He was fond of the society of friends, and enjoyed a good story or a good joke, and the wit and repartee of easy, social conversation, as much as any man, and sometimes indulged himself in little sallies of wit and humor, both at the bar and in private social intercourse,—but never of the ribald character. For, though by no means puritanical in his deportment, he was very circumspect in his walk and conversation through life. He never lowered the dignity of his nature by the use of vulgar or obscene language. His language in public and private was always chaste and grateful to the ear. And even in his forensic arguments, when called upon to deal with corruption and crime, and in exposing vice and fraud and holding up the iniquity and depravity of human conduct in its true light, he used a Damascus blade which rarely failed to sever and divide between the joints and the marrow and open up to view the foul subject under dissection: still, the blade lost nothing of its polish and brightness by the keenness of its edge or the dexterity with which it was used.

He was emphatically an honest man,—a noble specimen of a Southern lawyer; at all times true and faithful to his client, without ever committing the dignity or integrity of the profession by descending to any of the tricks or arts of the pettifogger to secure success. He never sought or took an advantage of an adversary; was liberal and generous toward opposing counsel in the management of a cause, yet tenacious of what he conceived to be the rights of himself and client both in law and in fact. Therefore it was that he entered into his cases and prosecuted them with great zeal and unflagging interest.

As a statesman or politician, his views were enlarged and liberal. He favored all projects that looked to developing the abundant resources of the State, and of advancing her political condition by enlightening her people through schools and colleges,—encouraging agriculture and aiding com-

* General George W. Gordon.

merce by all the facilities that combined Legislative and Executive effort could give. He was, in fact, one of the pioneers in that great system of internal improvement by railroads which has done so much to elevate our State among her sisters and add so much to the wealth, convenience, and happiness of her people. I believe he was the projector, or setter-on-foot, of the first railroad-convention that assembled in our State. It held its meeting at Eatonton, and was attended by many distinguished Georgians as delegates, among whom I now remember Col. William Cumming, of Augusta, and Judge Nicoll, of Savannah, (your humble friend, *then quite a young man*, was a member,) and I believe the Hon. John P. King, of the former place.* This Convention put the ball in motion in Georgia; and it has rolled on and on, till, in less than thirty years, we have seen accomplished what the wildest and most visionary theorist never dreamed of at that day. We looked for and expected *great things*, but not wonders and prodigies. We did not expect to scale mountains, o'erleap gulfs, span rivers, and penetrate into the very bowels of the earth.

In the private walks of life my brother was very exemplary, being sober, temperate, and discreet in all things,—was very evenly-tempered and conciliatory, yet firm and decisive in purpose. I regret very much that I cannot furnish you with a specimen of his private, familiar correspondence. I had a number of his letters; but they have all been lost or destroyed. We were in the habit of corresponding and communicating our views to each other for many years before his death, (he having been my guardian after the death of my father, who died when I was quite young.) I also read law with him: therefore a very peculiar and intimate brotherly affection existed between us, which causes me to regret the more that I cannot afford you access to his familiar letters, for there you would have a fuller insight into the true character of the MAN.

He died at Eatonton on the 8th day of October, 1836, of bilious fever, and I believe his disease was developed immediately after arguing an important cause in Newton Superior Court, in which he felt a good deal of interest. He was Senator elect from the county of Putnam at the time of his death. He left a widow (who is still living) and five children,—one son and four daughters: one of the latter has since died.

Enough has been said to place the merits of Charles P. Gordon fairly before the public. Nothing more is necessary. His record is a bright one, without stain or blemish. It was not only a great loss to his family, but a public misfortune, that a man of his worth and usefulness should have died at the comparatively early age of forty-five years. His venerable mother is still living, at the age of ninety years, (or was living in February, 1857.)

* The Convention at Eatonton was held in September, 1831. Maj. Thomas Stocks presided, and William Turner acted as Secretary, assisted by Sampson W. Harris, late Representative in Congress from Alabama, whose lamented death has been recently announced. Major Joel Crawford was also a delegate, besides a number of other prominent citizens from different sections of the State. The Hon. William B. Bulloch was a delegate from Chatham, but was too indisposed to take his seat in the Convention. Dr. Charles West was in from Liberty. The author, though not of the prominent class, was a delegate from Twiggs county, with his colleagues, Col. Nimrod W. Long, now of Alabama, and the late Matthew Robertson, Esq. The Rev. Adiel Sherwood presented each delegation with a copy of the map which first appeared in his *Gazetteer of Georgia*.

Mr. Gordon was the father of six children, two of whom died young and unmarried. The other four—three daughters and a son—are all married. The latter, A. G. Gordon, Esq., resides in East Florida, and is a planter. His eldest daughter, Mary, married John M. Flournoy, a planter, who resides at Wynnton, near Columbus. Virginia married Dr. Charles Abercrombie, of Alabama, and resides in that State, five miles from Columbus. The other daughter, Sarah, married Col. Joseph C. Watkins, of Liberty, and resides near Midway, in that county.

It is as remarkable as it is melancholy that Judge Shorter, about the same age, should have died within two months after Mr. Gordon passed away. They were both eminent in their profession, had been partners, and had both acquired a large property by their own labors. But the tomb will have its tenants, regardless of honor and wealth. On this level all meet at last. So far from obscuring, death has only given new lustre to the name of CHARLES P. GORDON, which will ever continue to occupy a high place in the forensic annals of Georgia.

NOTE TO THE MEMOIR.

It has been shown in the preceding pages that Mr. GORDON was mainly instrumental in getting up the first Internal Improvement Convention ever held in Georgia. The official proceedings of that body are copied from the *Georgia Journal* of November 3, 1831.

JOURNAL OF THE INTERNAL IMPROVEMENT CONVENTION.

EATONTON, Monday, September 26, 1831.

A considerable number of the delegates appointed to take into consideration the practicability and expediency of promoting internal improvements in this State convened in the church, in the town of Eatonton, on Monday, 26th September, 1831.

On motion of Mr. Irby Hudson,—

Resolved, That the Hon. Thomas Stocks be, and he is hereby, appointed President, and that William Turner, Sampson W. Harris, and William Wilkins, Jr., Esquires, be appointed Secretaries, of the Internal Improvement Convention.

The following delegates from the counties hereinafter named were then announced,—viz. :

From the county of *Bibb*—Oliver H. Prince and William B. Rogers.

Butts—Irwin Case and James H. Starke.

Campbell—Martin Kolb and Edmund B. Thompson.

Chatham—William B. Bulloch, Mordecai Myers, John C. Nicoll, and Thomas Young.

Columbia—Nathaniel Bailey, Edmund Bowdre, James F. Hamilton, and George W. Hardwick.

- Coweta*—William B. Cobb and James Thompson.
Effingham—John H. Hines and Clem Powers.
Fayette—Finley G. Stewart and Nathaniel Blanchard.
Greene—Thomas Dawson, Thomas G. Janes, and Thomas Stocks.
Hancock—Joel Crawford, John Graybill, James B. Ransom, and William Terrell.
Harris—Henry J. Harwell.
Heard—William H. Houghton and John T. Leftwich.
Henry—Abner Davis, Francis C. Manson, and Amasa Spencer.
Jasper—William B. Burney, Eli Glover, Alexander McDonald, and William Williamson.
Jefferson—John H. Newton.
Jones—James Gray, Thomas Hamilton, and Thomas Moughon.
Liberty—John Dunwoody and Charles West.
Meriwether—Alfred Wellborn.
Monroe—Thomas N. Beall, George W. Gordon, and N. B. Williams.
Morgan—Stewart Floyd, William Porter, John B. Walker, and John Wingfield.
Muscogee—John Milton.
Newton—William D. Conyers, Charles H. Sanders, and Josiah Perry.
Pike—John Neal and John B. Reid.
Putnam—Henry Branham, Irby Hudson, L. W. Hudson, W. W. Mason, and James A. Meriwether.
Richmond—William Cumming and John Moore.
Talbot—Samuel W. Flournoy and Charles Pace.
Taliaferro—Marcus Andrews, Absalom Janes, and Simon Morris.
Twiggs—Nimrod W. Long, Stephen F. Miller, and Matthew Robertson.
Upson—James R. Cox and Moses Wheat.
Warren—Gray A. Chandler.
Washington—William Hurst.
Wilkinson—Thomas Gilbert.
- Mr. Irby Hudson moved certain rules for the government of the Convention; and the same, being taken up amended, were agreed to.
 Mr. Prince then offered certain resolutions concerning the subject before the Convention; and, some debate being had,
 Mr. Cumming offered the following resolution,—to wit:
Resolved, That a committee of nine be appointed, to report to this Convention the best mode of proceeding to the discussion of the purposes for which its members have assembled; and the same, being read, was adopted by the Convention.

The Convention then adjourned to half-past two o'clock P.M.

Monday evening.

The Convention met pursuant to adjournment, when the President announced the appointment of the following members on the committee to report the best mode of proceeding to the discussion of the purposes of the Convention,—namely: Messrs. Cumming, Nicoll, West, Prince, Milton, Crawford, Branham, Wingfield, and Conyers.

The Convention then adjourned to 9 o'clock to-morrow morning.

Tuesday, September 27, 1831.

The Convention met pursuant to adjournment. Mr. Cumming, from the committee appointed to suggest to the Convention a course of pro-

ceeding, presented a report, and the same, being read, was taken up by paragraphs, several amendments made, and agreed to as follows,—to wit:

The committee appointed to suggest a course of proceeding to this Convention has the honor to report the following resolutions, the adoption of which it recommends:—

1st Resolution. This Convention earnestly recommends a system of internal improvement to the patronage of the State.

2d Resolution. The Convention recommends that the Legislature authorize the Governor to employ a competent engineer or engineers to make a minute and careful survey of the principal lines of commercial communication in this State, with reference to their fitness for railroads, turnpikes, or canals, and to diffuse among our fellow-citizens generally the topographical information thus obtained.

3d Resolution. The Convention recommends for survey the following lines:—

1st. That from Savannah to Augusta, and thence to Eatonton, and thence in a westwardly direction to the Chattahoochee.

2d. The line from Savannah to Macon, and thence to Columbus, and a line connecting Milledgeville with that route.

3d. The line from Savannah to the head of navigation on Flint River, and thence to Columbus.

4th. The line from Augusta to Athens, and thence in the most advisable direction toward the northwestern boundary of the State; together with any other line or lines which may afford the prospect of important commercial advantage.

4th Resolution. If the State is disinclined to undertake, with her own resources, those improvements, the Convention recommends that, by subscriptions for stock, loans, or other pecuniary aid, she co-operate with such companies as may be chartered for the purpose of improving the whole or a part of any of the routes above mentioned.

The Convention then adjourned to 3 o'clock P.M.

Tuesday evening.

The Convention met pursuant to adjournment. On motion, Mr. Wingfield had leave of absence, on account of the indisposition of his family.

On motion of Mr. Nicoll,—

Resolved, That the thanks of this Convention be tendered to the Rev. Adiel Sherwood for his valuable donation of a map of the State to the delegation of each county represented in this body.

On motion of Mr. Branham,—

Resolved, That the President be requested to lay before the next General Assembly the result of the deliberations of this Convention.

On motion of Mr. Harwell,—

Resolved, That the Secretary be requested to enclose a copy of the proceedings of this meeting to the editors in Milledgeville, with a request that they make the same public.

On motion of Mr. Nicoll,—

Resolved, unanimously, That the thanks of this Convention be tendered to its President for the impartial and dignified manner in which he has presided over, and for the facility which he has given by his ability to, its proceedings.

On motion of Mr. Harwell,—

Resolved, That the thanks of this Convention be given to the Secretaries for the faithful discharge of their duties.

The Convention then adjourned, without a day.

WILLIAM TURNER,
SAMPSON W. HARRIS,
WILLIAM WILKINS, JR.,

} *Secretaries.*

THOMAS STOCKS,
President.

EATONTON, September 27, 1831.

The delegates representing those counties which are most particularly interested in the construction of a railroad or a turnpike-road from Augusta to some interior point of the State convened in the church, in the town of Eatonton, at 5 o'clock on Tuesday, the 27th September, 1831.

The delegates hereinafter mentioned were present,—to wit: [It is unnecessary to repeat the names here, as they were the same as in the other Convention from the counties of Butts, Columbia, Campbell, Coweta, Fayette, Greene, Hancock, Heard, Henry, Morgan, Newton, Jasper, Pike, Putnam, Richmond, Taliaferro, and Warren.]

On motion of Mr. Irby Hudson,—

The Hon. Thomas Stocks was unanimously chosen Chairman, and Sampson W. Harris, Secretary.

On motion of Mr. Irby Hudson,—

A committee of five was appointed, to report upon the object of the Convention at 7 o'clock. The committee appointed consisted of Messrs. Irby Hudson, Cumming, Janes of Taliaferro, Williamson, and Kolb.

On motion of Mr. Lewellen W. Hudson,—

It was agreed that the Convention adjourn, to assemble at the courthouse at 7 o'clock.

Tuesday night.

The Convention met pursuant to adjournment.

Mr. Hudson, from the committee appointed to report upon the object of the Convention, presented a report; and the same, being read, was taken up by paragraphs, and adopted without alteration, as follows:—

1st. *Resolved*, That the Convention recommend to the next Legislature to incorporate a company to construct a railroad or turnpike-road from Augusta to Eatonton, and, if deemed advisable by the company, to be continued from thence westwardly to the line of this State, with a capital stock of one million of dollars, with the right of increasing the capital stock to two millions of dollars.

2d. *Resolved*, That the Convention recommend the appointment of five as a committee to draft a petition to the next Legislature, requesting a charter of incorporation to carry the object contemplated in the first resolution into effect.

3d. *Resolved*, That the charter of incorporation, as contemplated in the second resolution, be drawn by the committee named in [under] the second resolution, and that said charter of incorporation require that, when the capital stock of said railroad or turnpike is subscribed for, that the stockholder shall pay two and a half per cent. on each share subscribed for, at the time of subscribing; and that when three-fourths of the stock is [shall be] subscribed for, that the stockholders shall have the right of electing directors and commencing the work, if the same should be deemed advisable by a majority of the stockholders; and that said

directors be authorized to have made all the necessary surveys, if the State does not authorize the same to be done at the next session of the Legislature.

Mr. Janes, of Taliaferro, moved that "Eatonton," in the first of the foregoing resolutions, be stricken out, and that "Kingston, in the county of Morgan," be substituted. There being a division of sentiment, after some debate the yeas and nays were called, which were as follows:—

YEAS.—Andrews, Bowdre, Bailey, Blanchard, Conyers, Dawson, Floyd, Hamilton, of Columbia, Janes of Greene, Janes of Taliaferro, Kolb, Morris, Porter, Perry, Stewart, Thompson of Campbell, and Walker,—17.

NAYS.—Messrs. Branham, Burney, Case, Cobb, Crawford, Cumming, Chandler, Davis, Glover, Houghton, I. Hudson, J. W. Hudson, Leftwich, Mason, Meriwether, McDonald, McLendon, Manson, Moore, Neal, Ransom, Starke, Spencer, Thompson of Coweta, Terrell, and Williamson. 26.

The committee finally agreed upon to effect the second foregoing resolution is composed of Messrs. Terrell, Mason, Glover, Neal, and Meriwether.

On motion of Mr. Lewellen W. Hudson,—

Resolved, That the Secretary be requested to use the necessary means of having the proceedings of this meeting made public.

The Convention then adjourned *sine die*.

SAMPSON W. HARRIS,
Secretary.

THOMAS STOCKS,
Chairman.

XVIII.

ROBERT P. HALL.

THIS memoir will open without promises of any kind, or expressions of opinion in advance. The reader will form his own judgment on the facts stated and the evidence laid before him.

ROBERT PLEASANTS HALL was born in Chester district, State of South Carolina, on the 23d day of December, 1825, near Land's Ford, on the Catawba River. His parents were Dr. Ezekiel Hall, and his wife Julia Rebecca, whose family name was Hill. She was the daughter of William Henry Hill, late of Hanover county, North Carolina, and grand-daughter of Gen. John Ashe, of Revolutionary fame. Relative to the public services of Gen. Ashe, history has spoken in terms of high commendation. He was Speaker of the House of Assembly when the royal Governor Tryon dissolved that body, on the 18th of May, 1765, on account of its opposition to the Stamp Act, which had received the royal sanction on the 22d of March previously.

The Speaker of the House, John Ashe, Esq., informed Governor Tryon that this law would be resisted to blood and death.

Governor Tryon knew that the storm raged: courageous as he was, he dreaded its fury. He did not allow the Legislature to meet during the existence of this act. But, faithful to the Government, he condescended to use the arts of the demagogue to avoid the odium of its measures. He mingled freely with the people, displaying profuse hospitality, and prepared dinners and feasts. But, unawed by power, the people were not to be seduced by blandishments.

Early in the year 1765, the *Diligence*, a sloop-of-war, arrived in the Cape Fear River with stamp-paper for the use of the colony.

Colonel John Ashe, of the county of New Hanover, and Colonel Waddell, of the county of Brunswick, marched, at the head of the brave sons of these counties, to Brunswick, before which town the *Diligence* was anchored, terrified the captain so that no attempt was made to land the paper; the sloop-of-war's boat hoisted on a cart, fixed a mast in her, mounted a flag, and marched in triumph to Wilmington. The whole town joined in a splendid illumination at night, and the next day these patriotic citizens went to the Governor's house and "bearded the Douglas in his castle." They demanded of Governor Tryon to desist from all attempts to execute the Stamp Act, and produce to them James Houstoun, who was a member of the council, an inmate of the Governor's house, and who had been appointed, by Tryon, Stamp-Master for North Carolina. The Governor at first refused a demand so tumultuously made; but the haughty spirit of the representative of even kingly power yielded before the power of a virtuous and incensed people,—for the people prepared to burn up the palace, and with it the Governor, the Stamp-Master, and the menials of royal power.

The Governor then reluctantly produced Houstoun, who was seized by the people, carried to the public market-place, and there forced to take a solemn oath not to attempt to execute his office as Stamp-Master. After this he was released. He returned to the palace to comfort his dejected and discomfited master. The people gave three cheers and quietly dispersed.

Here is an act of North Carolinians "worthy of all Grecian or Roman fame."

The famous tea-party of Boston, when a number of citizens, disguised as Indians, went on board of a ship in the harbor and threw overboard the tea imported in her, has been celebrated by every writer of our national history, and

"Peal'd and chimed on every tongue of fame."

Our children are taught to read it in their early lessons: it adorns the picture-book of our nurseries, and is known in the remotest borders of the Republic.

Here is an act of the sons of the old "North State," not committed on the harmless carriers of the freight, or crew of a vessel, not done under any disguise or mask, but on the representative of royalty itself, occupying a palace, and in open day, by men well known in person and reputation; much more decided in its character, more daring in its action, more important in its results: and yet not one-half of our own sons have ever read of this exploit.*

* Wheeler's History of North Carolina, vol. i. p. 50.

Referring to the conspicuous part acted by Gen. Ashe and his family, another writer says:*

The Ashe family contributed more to the success of the Revolution than any other in the State. Gen. Ashe's son, Captain Samuel Ashe, served two campaigns in the Northern States, with the rank of captain in the Light Horse; and, although he resigned his commission, yet he continued to serve in the militia-expeditions of the State during the war. So that there were five officers of that family all actively engaged in the war,—Gen. John Ashe and his son, Captain Samuel Ashe, Gov. Samuel Ashe and his sons, Colonels John Baptista and Samuel Ashe.

This allusion to an honored ancestor of Robert P. Hall is made for a twofold purpose: first, to show that the gallant sons of a Southern State set an example of defiance to oppressive taxation just eight years before the people of Massachusetts took upon themselves the *peril* of throwing the British tea overboard in 1773; and, secondly, to claim for a gifted descendant of the purest Revolutionary stock the credit, little or much, to which he was entitled from that circumstance,—a claim the more sacred now because he cannot be affected by it.

At the common age, Robert was sent to school at Yorkville, where he was taught his first lessons by Robert E. Edmonds, an Irishman. In 1836, Dr. Hall removed from Chester district to Crawford county, Georgia, where he has since resided. Here his son was placed in charge of James J. Ray, Esq., who had a school near Knoxville. Six or eight months terminated Robert's tuition under this gentleman, who has since been Clerk of the Superior Court of Crawford county, and a warm personal friend of his talented pupil until the death of the latter. This affection was mutual.

The next school he entered was that of the Rev. William W. Wynn, at Hopewell, Crawford county, where he remained but a short time. He then passed a year at Oxford, Newton county, under the instruction of the Rev. P. H. Mell, since Professor of Ancient Languages in the University of Georgia. From 1837 to 1847, Robert was not more than about three years at school, all the time put together. His aptitude for learning made schools unnecessary. He was at no time very diligent in his studies, much preferring field-sports, such as fowling, fishing, the chase, and other out-of-door exercises. But he was never behind in his lessons or recitations. A few hours would suffice to give him an accurate knowledge of all subjects which he was required to examine.

* See Jones's Defence of North Carolina, p. 211.

Hence he had much spare time for reverie and the indulgence of those poetic fancies to which he was prone from his earliest youth; for a poem was found among his papers submitted to the author, bearing date December 31, 1844, within a few days after he had completed his nineteenth year. It is stamped with the genius that distinguished his other productions of the like kind, of which specimens will be given in the course of this memoir.

In 1847, he commenced reading law in the office of his brother, Samuel Hall, Esq., at Knoxville, and, after a preparation of six or eight months, was admitted to the bar at February Term, 1848, of Crawford Superior Court, Judge Floyd presiding. In the course of that year a small volume was issued from the press in Charleston, entitled "Poems by a South Carolinian," of which Robert P. Hall was the author. The thirty-two pieces form one hundred and four pages, varying from the keenest satire to the richest pathos,—some in blank verse. As a few extracts will be made, the preface is here given to explain the views of the poet:—

A SOUTH CAROLINIAN, I present to my fellow-citizens the "firstlings of my muse," and hope my offering may prove acceptable.

Should the following poems be found only worthy of ridicule, I shall have to bear the public censure alone, as they were written and are published without the advice and solicitations of even "a few partial friends."

I do not design to tell my readers of difficulties which beset me, of my "extreme youth," of the many disadvantages I had to contend with in the outset of my career as a poet, as is usual in the apologetic prefaces so common now, and through which threadbare cloak of humility the vanity of the bardling is too perceptible,—a practice which might well be excused, if it were the writer's design not to startle the reader with the beauties that will shine upon him from every line, but to ask his mercy for the many faults that he shall discover as he reads. I do not care to make myself appear either a baby or an ass on the first page of my volume, to excite wonder at my modesty, and admiration of the unexpected bursts of genius which are to follow my deprecatory prologue.

If my efforts are found worthy of praise, it will be gratefully received; if deserving condemnation, I can bear it. I prefer honest and decided blame to "the faint and damning praise" sometimes accorded in pity to imbecility.

In justice to myself, I must say to those who shall seek for classical beauties in the following pages, your labor will be lost. The lore of Greece is to me a "sealed fountain," and my acquaintance with the Latin tongue is very slight.

"School-helps I want to climb on high,
Where all the ancient treasures lie,
And there, unseen, commit a theft
On wealth in Greek exchequers left."

Perhaps the thorough scholar, if one shall ever read my verses, will detect many metrical inaccuracies, as I have written entirely by ear.

Where I have imitated, I have taken as my model the best dead authors of Great Britain, and not the present idols of public adoration, for the very sufficient reason that I cannot copy what I do not understand. I have endeavored to portray, in words intelligible to all tolerably conversant with the English language, feelings common to mankind until they are corrupted by fashion and false systems of philosophy.(?) I do not expect my writings to please the followers of Kant and the admirers of most of our living authors—admirers who can find wisdom in what to me is folly, can hear divine melody in what to my ear (untutored, I suppose) is a harsh and barbarous jargon. I shall be satisfied if my poems are admired and understood by those who are not the slaves of German transcendentalism, but the children of nature. I would not, if I could, be the favorite of a sect, admired by them and unintelligible to others.

"I only seek, in language void of art,
To ope my breast and pour out all my heart."

A reputation, to be lasting, must be based upon the hearts of the many. Writing, to be long popular, must make a responsive echo in the breasts and in the minds of men who are what nature made them,—not in the crooked understandings and mawkish sentiments that are the growth of the *schools*, seeking to dignify their pompous foolery by self-laudations and a sounding name.

I have felt the passions I have sung. Mine are no fabled loves and sorrows.

It seems to me that the great deficiencies of our literature nowadays are common sense and common feeling. We want faithfulness to nature, and that freshness of thought and heart which are its attendants. We have too much of the metaphysical man, not enough of the natural. Whether I succeed or fail, I will have the consolation of knowing that, small though my abilities be, they have been devoted to the cause of truth. I shall feel that I have not (as too many do who are my superiors) pandered to the depraved taste which is fast taking hold upon the public,—a taste which, if not soon arrested, will render our literature a vast collection of impious blasphemies and nonsensical bombast, more worthy the inmates of a mighty mad-house than of the authors who should strive to tickle for a while the votaries of fashion, but leave to posterity enduring proofs of the wit and wisdom of our republic during their "day and generation," of which they will be the representatives to the men who will come after us.

There is a sharpness in this introduction which cannot fail to attract the reader to the source,—a young man in his twenty-third year. Some selections will be made,—not because they are the finest, but as an average. The first is "An Elegy" describing the excellence of a young lady to whom he was affianced, and his sufferings at her death. It is probably real, from what he confesses in the preface:—"I have felt the passions I have sung. Mine are no fabled loves and sorrows." At page 13, it thus proceeds:—

As humbled pride, in days of its distress,
Dreams o'er its vanish'd wealth and mightiness,
Roof'd by a hut, recounts its former store,
And half forgets the chill and cheerless floor;

So I, as memory renders lost delight,
 May shun the present with averted sight,
 And, half oblivious, as it flies my gaze,
 Transport my spirit to its brighter days,
 And think on her who was their light, their sun,
 My lovely Anna, my departed one.
 Vain is the task, I know, but linger yet
 To brood o'er beauties I had best forget ;
 To mock my heart with many a vanish'd scene,—
 Think what I am, remember what I've been.
 So softly sweet and musically clear
 Her voice yet whispers to my cheated ear,
 Though dark and silent in oblivion's gloom,
 She sleeps undreamingly, her home the tomb,
 Yet lingering memory fondly can restore
 The winning charms that bloom for me no more,—
 On the pale cheek the perish'd rose relume,
 Light the dark eye, and mock the waster's doom.
 Hers was a beauty clear, serene, refined,
 Where chasten'd passion and a sinless mind,
 Like evening beams and softer rays of night,
 Divinely blending their ethereal light
 In melting harmony, conspired to bless
 Earth's fairest mould with heaven's loveliness,
 To charm my spirit, till Destruction gave
 A spotless angel to an early grave.

Hers was the wisdom known to virtue best,—
 To know thyself; in blessing others, blest ;
 The mirth of innocence that mock'd no heart,—
 Not wounding wit, with its malignant dart ;
 The kindly sympathy with others' grief,
 That knew no rapture till it gave relief;
 The constant heart, the soul of vestal fire,
 Warm without sin, and pure in each desire ;
 The joyous soul, where feelings high and pure,
 Like angels, smiled a guiltless Eden o'er ;
 That modest piety whose law was love,
 Benignant, boundless as the skies above,—
 Not the stern gloom of the ascetic's air,
 With all its pomp of hypocritic prayer :
 You saw its trace, not in the rigid brow,
 The mock humility and saintly bow,
 The pride of righteousness, the sacred guise
 By bloodless villains worn for mortal eyes,
 (Like stately tombs with virtues scribbled o'er,
 While all is foul and rotten in their core :)
 No ! in each cheering word, each kindly deed,
 Th' angelic influence every eye could read,
 As all behold the sky's life-giving power
 In the fair hue that paints the azure flower.
 To others kind, and to herself severe,
 Blest in her virtue, vice received a tear ;
 It was not hers to punish, but amend :
 God was the judge ; 'twas hers to be the friend.
 Beloved, admired by all, to her alone
 Her grace and loveliness appear'd unknown ;
 As yonder moon but beams in beauty's pride,
 Lights the soft earth and gilds the subject tide,
 Seems all unconscious of the charms that blaze
 In stainless lustre from her lofty rays,

And only views the brightness of that sun
From whence her own and starry beams are won.

Can I recall, nor madden as I do,
The lingering hours that o'er me slowly drew
Their chilling weight, when first I heard that she
Was in the grave and ever lost to me ?
The stern, the dubious pain, the dread surprise,
The swelling bosom, and the choking sighs ?
My eyes that ached till, like the gushing rain,
Fast flow'd their tears, and cool'd my burning brain ?
The lingering day that mock'd with golden ray
My dull despair, and slowly sunk away ?
The age of torture that my soul lived through,
And perish'd not, yet how it scarcely knew ?
The closing eye, that, sadly brightening, brought
Lost scenes of joy in agonizing thought,
Till my wild soul in madness cursed high Heaven,—
When death it pray'd, and knew it was not given ?

* * * * *

It must be so!—the dead can sure return,
Burst the dark earth, desert the lonely urn :
For lo ! what meets my eye—still fair, though pale—
Where fall the moonbeams, and the shadows fail,
All wanly beautiful and coldly bright,
That, starlike, saddeneth while it giveth light ?
'Tis thou, my Anna ; but how changed thou art !
Yet none more changed than is this hopeless heart.
Speak, speak ! thy pallid lips, again they move !
My eager spirit waits their words of love ;
Raise the cold lids, and let those eyes of light
Flash on my soul and chase away its night.
Oh, nearer come, that I again may press
Those cherish'd lips of faded loveliness,
May to my heart thy wasted beauties fold,
Till thou shalt live, or, haply, I be cold !
She comes ! I clasp her—pitying Heaven ! her charms
To moonbeams melt within my circling arms,
That strike, relapsing through the airy gloom,
On my lone breast, resounding like a tomb.
I am alone !—O God, again alone !
Detested word !—the lovely shadow gone !
The only thing that meets my eye, yon stone
The setting beams are coldly glancing on ;
The only sound that greets my straining ear
The echoed accents of my own despair.

Beginning at page 61, "Midnight in a City" is thus described :—

'Tis midnight, and the lamp, that flicker'd long
Before my weary gaze, hath died away,
E'en as my soul shall fade into the night
When it is done with woe. I cannot sleep,
Though 'tis the calmest hour of slumber's reign ;
My pangs of body, and the keener pangs
Than of my burnt and aching limbs,—the pangs
Of my sick mind,—deny all rest to me.
I gaze upon the gloom with weary eyes,
Sear'd by the fiery forms that wildly whirl
Before my burning brain. Alone, and sick !
No voice to whisper comfort, and to plan

Scenes of delight for health restored, to speak
 The hope that trembles from the lips of doubt
 And half repays us for the pain we bear,
 By telling us how we are valued,—no
 Soft hand to linger kindly on my own
 And calm its fever'd pulse. She sleeps in dust
 Who I had hoped would cheer me at such a time,
 Bring the cool draught, or wing the tedious night
 By words of love, and fondly kiss away
 The hot impatience breathing from my lips.

I vainly toss upon my burning bed ;
 Still glows my blood, and still the changeless pang
 Chokes my faint throat ; no posture brings relief
 Unto my body, and no change of thought
 To my worn spirit,—for I meditate
 On death, despair, and loneliness,—the first
 The brightest of my visitants. I may
 Survive ; the throes of flesh may cease ; but those
 That waste my spirit only will be calm'd
 In the chill grave.

How sharply to my ear
 The ticking clock tells o'er the leaden hours !
 Sleepless, like me, beneath its garland sere
 It labors through the night : its tones are sharp
 As is the clicking of the winter sleet
 Upon a tomb ; and, mocking my pall'd ear,
 They seem the dread and saddening echoes of
 The fleshless foot of death, that falls upon
 The bones of all I love, as slow he steals
 On his destroying course.

I'll rise and look
 Upon the blue and solemn skies : perchance
 Their dark and vast serenity may calm
 My soul to rest. Their orbs of purest light,
 That I have deem'd kind ministers of love
 And loveliness, may pour upon my soul
 Bright thoughts of other days, to cheer its gloom.

How beautiful, sublimely beautiful,
 The boundless dome of yon eternal sky !
 Whose dusky and yet clear magnificence
 Temples the silent stars, that rise, and watch,
 And weep, above this lost and stricken world,
 Sleeping in foggy night ; and now they view,
 As long and changelessly from high they've seen,
 The same dark host of passions lull'd to rest,
 The same dull orb, with its uncounted graves,
 Kingdoms in ruins, mighty cities hid
 In desert sands, and others springing up
 Like destiny to share. They weep o'er all,
 And, glowing far and tremulously bright,
 They seem the tears of angels, shed above
 This lost and wasted world, and by their light,
 Sad, purely spiritual, and meek with love,
 Like the full eye of charity, to win,
 While weeping o'er the fallen, from the dust
 To their eternal light and quietude.

This city spreads below me, dull and black,
 Its houses crowded, and confusedly blent
 In one dim mass: its hum is hush'd; its lights
 Are gone, save yonder lamp, that casts a glare,
 Wavering and weak, upon the snowy couch
 Where wasted man is sinking to the grave,
 While, sadly weeping, stand his friends around,
 Or steal like spirits through the dismal room,
 Awed by the might of death, or as they fear
 To fright the presence of eternal sleep
 From the weak lids that tremble o'er the eyes,
 Hollow with agony, where faintly burns
 The fading glow of life.

And now the stars
 Look silently upon the few that watch—
 Not sleep—away the night, like me denied
 To rest by pain; and on the sleep of those
 More blest than I,—the pure, the innocent,
 Young in existence, old in hope and joy
 That soon will fly and leave them desolate.
 Their dreams are beautiful, because unlike
 The life they soon must wake to; and the sad,
 Cheer'd by the visions of the past, are glad
 Their crush'd and tortured spirits now can soar
 From life,—that over-fill'd and gloomy grave
 Where myriads rot. Death yields his phantoms now
 To lull, to soothe, perchance to sear, the heart
 Of guiltiness, with an undying pang,
 That, worm-like, wastes beneath the seeming calm.
 Amid the host of hearts that beat below,
 None have a pulse for me. I stand alone
 Among my kind; no human blood doth change
 Its flow at my approach, no bosom warms.
 All, all are cold to me: my spirit bends,
 Like a lone willow, o'er her monument
 Who, living, would have loved me; naught may lift,
 Save the wild tempests, from her grave my thoughts.
 So young, and yet so friendless, sad, am I!
 And yet I weep not. All my joys are gone,
 And friends shrink from me, as retainers from
 An empty board where once they feasted. Time
 Will deepen my already dismal lot;
 For I shall live, I dread, to weak old age.
 The heart that's blighted in the spring of youth
 Clings longest to the wither'd bough of life.
 Existence pledges me no future bliss;
 And, careless as an unloved child may listen
 Unto a father's will, unmoved I hear
 Her poor bequests, among the eager cold.
 When I am old and wither'd, when decay
 Of my gray hairs shall weave a winding-sheet
 O'er blighted hopes and melancholy thoughts
 That die away, I shall be all alone;
 And, when I sink into my humble grave,
 None will weep o'er me, none remember me.
 My parents will be dust: they only love me;—
 A dark foreboding! yet my soul can bear
 Its gloom, nor murmur,—victor by resolve,
 And pride that stoops not o'er unfriendly fate.

Four stanzas more will conclude the quotations from the little volume in hand, (p. 81.)

I.

Though fate of all others bereaves me,
My soul to that fate is resign'd ;
Though the last star my destiny gives me
Goes out in the gloom of my mind,
I shrink not from sorrow, nor fear it,
Though my bosom is bare to the blast :
While thy spirit is beaming to cheer it,
Existence can ne'er be a waste.

II.

Though all others in sorrow may fly me,
I ask not a smile or a tear ;
I am blest until fate shall deny me
The love of thy spirit to share.
'Tis a beam that was born out of sadness ;
It dawn'd when all others had set,
And, beguiling my soul from its madness,
Burns lofty and beautiful yet.

III.

The mariners dread not, nor tremble,
Though the stars from the firmament wane,
When the clouds in their darkness assemble,
And the wind sweeps the desolate main ;
They care not what beams are denied them,
As on o'er the waters they roam,
If their polo-star will steadily guide them
And point out their track o'er the foam.

IV.

Of the love of all others I'm careless ;
I would not, if granted their light ;
In the storm and the darkness I'm fearless,
If thy spirit yet beacons the night.
My thoughts never bow them despairing
While that quenchless and beautiful ray,
In the light of its purity cheering,
Sheds brightness and peace on their way.

From verse a transition is here made to prose in form, but it is poetry in spirit. The date of its composition is not marked on the fragment. It is supposed to be descriptive of his own tastes and solitary musings, and, from the appearance of the manuscript, to have been written about his twentieth year. It is entitled "CLIO," and the opening half is as follows :—

Even when a boy he hated the schools, and was glad to escape in the summer to the brook-side, beneath the old and upright rocks overgrown with creeping and flowering plants, from whose summit a huge and half-blighted poplar towered. Seated there in a little recess on three sides walled in by the rocks, the fourth opening to the entrance overhung by bushes, he would listen delightedly to the song of the wild bird, or the whispering of the fragrant flowers in their green livery, or the gentle and quietly falling breeze and the gurgling creek, or watch the butterflies

floating from flower to flower, now folding as they paused, now spreading out their brilliant wings, or gazing at the chameleon as he glided down an old decayed log, steal into his cool retreat, or spring nimbly from twig to twig.

At other times, beneath the shade of the green birch, he would stretch himself on the grassy margin of the creek, and dream vaguely of coming life,—of her beauty, fame, and joy,—of good men, and pure sweet women whose smiles made earth a paradise: vague, beautiful, and ever-shifting pictures, all bright and innocent, floated through his calm and sinless spirit, like the white clouds along the deep, unearthly azure of the summer skies, all purity and peace within. Passion was awed by the universal aspect of living beauty and speaking love that nature spread around, and would not disturb by its ruffling wing the soul reflecting her loveliness.

Sometimes his sister was the companion of his wandering hours; and then some simple tale of brave knight and lovely lady, or some pathetic ballad of disappointed love, (then a passion he never dreamed of being the prey of,) would either set hope to work, building her mimic scenes of triumph and love, or arouse a calm and gentle emotion of pity, that swept like a passing shade, leaving no stain behind, over his noble heart. His dog, too, was always with him, and, by the quick wag of his tail, the fond and intelligent sparkle of his brown eyes, or the glad bark or sportive bounds, seemed to sympathize with his delight. In such scenes it was that he nursed the love of nature in his heart, that, like a desolate orphan kindly nurtured and reared to manhood, cheered in its gloomy decline his blighted spirit.

Aside from the euphony of the style and the romantic visions of the young writer, there is nothing to be particularly praised in the above extract. It shows the rich imagination and great command of language he possessed at so early a period; and for this purpose alone it is here copied.

The handwriting of the two stanzas that follow denotes that they were composed previous to his eighteenth year. They are headed "THE BOOK AND THE BREEZE."

Bright slept the evening's purple ray
 Upon the hillock's grassy slope,
 Where 'mid the flowers I musing lay,
 Fann'd by a breeze as fresh as hope.
 My book beside me on the sward
 My careless hand had idly thrown;
 From every leaf the glorious bard
 In glowing thoughts of beauty shone.

The freshening wind turn'd slowly o'er
 The rustling leaves, and 'neath the light
 Each moment some new thought, and pure,
 Lay gilded by the raylets bright.
 Though pleasures bloom around, O God,
 Grant thus my every day to be
 Traced, like that book upon the sod,
 With thoughts that Thou wilt smile to see.

The touching lines next introduced appear to have been written on the death of a married sister :*—

My sister, shall we meet no more?
 My sister, shall we greet no more?
 Shall I no more behold thee come
 Through yonder gate-way to our home?
 No more thy flowing robes my eye
 Through the orchard's boughs espy?
 And haste to meet thee, earliest, best,
 And truest friend my life has known?
 No more fold thee to my heaving breast,
 Thy lovely form, my cherish'd one?
 Nor press thy lips, nor part the hair
 Back from thy forehead smooth and fair,—
 While thy blue eyes, all dewy bright,
 Turn on my own their tender light,
 Whose every ray to me declares
 Thy soul unchanged with rolling years,
 And tells the love that dawn'd with life,
 Unchill'd by time, unchanged by strife,
 Its trembling birth of beauty past,
 Will warm and brighten to the last,
 Till, melting like the setting sun,
 Its course is o'er, and heaven is won?

Shall I no more, when all the west
 Sublimely lights the world to rest,
 Beside thee sit, while blithely round
 Thy sportive children sing and bound,
 And mark with joy upon thy face
 Thy love for them,—new beauty trace?
 Thy glance that follows where they hie,
 As once our mother's gentle eye,
 'Neath other skies, now far away,
 Smiled on us at our evening play.
 Nor listen, 'mid the twilight air,
 Now to their short and simple prayer,
 Nor mark thy snowy finger raise
 Before their young and eager gaze,
 While love and faith hath lit thy glance
 With brighter, purer radiance,
 To some high planet fair and bright
 That blazes through the azure night,
 While simple words, that suit them well,
 Of paradise and angels tell,
 And fall upon their minds as dews
 On fresh-turn'd buds, and deep infuse,
 Though light and soft they feel the glow
 Of worlds from whence their crystals flow.

Shall I no more behold thee sit
 Beside our hearth, nor hear the wit
 That from thy spirit shining came,
 As from the sun a glance of flame,
 Warm, bright, and native from the heart
 And kindling mind, an instant dart?

* Mrs. Marianne Howard, (wife of Thomas C. Howard, Esq.,) died in 1847.

No more shall hear that warbling tongue
 Breathe out the sweetest tones of song?
 Shall I no more, when frowning fate
 My future renders desolate,—
 When hope is faint, and woe, and fear
 Cast o'er my brow the gloom of care,—
 My throbbing forehead fondly rest
 Upon thy soft and kindly breast,
 And feel, whatever fate may come,
 There, there, my heart may find a home?

No, never, never! the tomb doth hold
 Thy lifeless ashes, dim and cold.
 Thy father's form in grief is bow'd
 As vanish'd hours upon him crowd;
 Thy mother's cheek is wan with woe,
 And sadness sits upon her brow;
 Thy sisters and thy brothers, all
 Are crush'd by thine untimely fall;
 Thy children, yet too young to know
 A mother's loss, are sporting now;
 Yet oft amid their play—

Here the poem closes, in the middle of a couplet, clearly proving that he had not finished it. The manuscript shows that no corrections had been made after the muse breathed her first notes of sadness. The reader will hardly fail to sympathize with the occasion,—a brother's heart mourning a sister's love!

An effusion of about three hundred lines, entitled "The Cherokee," contains great variety of scene, mostly in the forest, on the mountains and rivers of Upper Georgia. There is much character and sentiment expressed in it, such as may be supposed applicable to the Indian tribes in a state of nature. It thus begins:—

A virgin continent around me woos
 With its wild loveliness my grateful muse:
 Shall I, forgetful, cross the deep to find
 Themes for my song, my country left behind?
 Where is a land on which a deeper blue
 Divinely bends than that I proudly view,—
 Where broader rivers sweep to join the main,
 All brightly winding through their rich domain,—
 Where prouder mountains look o'er softer vales,
 Or greener forests wave to fresher gales?
 Nor higher hearts, nor fairer maidens form'd
 For love's sweet worship with his spirit warm'd,
 Invite the poet, than the dusky band,
 The forest-children of my native land:
 Free as the rivers by whose sides they roam,
 The sky their temple, and the wood their home,—
 Their gods the elements that bless or fright,
 The eternal fires that warm the world, and light,—
 To these their prayers in simple accents rise
 Pure as the dew that with the morning flies.

From a paper found, apparently addressed to some one for information, to which the answers are in a different handwriting, Indian definitions are asked and thus given:—Coosa means *Creek Indian*; Coosawattie, *old Creek Indian*; Silacoe, *bear-grass*; Altoona, *two branches together*. And English words are thus rendered into Cherokee:—The sun, *nar-tor*; the moon, *nar-tor-ser-noy-a-he*; a star, *nor-qui-see*; a spring, *am-arku-nu-kor*; a flower, *ah*; a white cloud, *oh-lo-ki-lor*; morning, *su-nar-lee*; evening, *ser-ke-ya*; lightning, *arn-arc-lee*; thunder, *i-he-re-tar-qur-lo-ro-ur*; a bird, *ts-es-qua*; a fawn, *ho-roy*; a mountain, *or-tar-lee*; a fort, *ur-nil-stee*; a dove, *coo-lu-teas-cor-nee*; an eagle, *wor-hil-la*; day, *echa*; night, *ser-nor-gee*; spring, *cor-kee*; summer, *cor-kay*; autumn, *oo-luc-ost*; winter, *cau-lar*; a cool wind, *oo-hu-nte-ler*; a hot day, *oo-tee-lay-ker*.

It is believed that Mr. Hall sought these Indians terms to be used in the poem or some legend which he intended to write. Several hundred pages of his manuscript are in the author's possession, much of it fragmentary and in the rough draft: not a stanza or couplet of the whole, however, is destitute of poetic ability and a true taste for nature. The pieces selected are not, perhaps, equal to some others in strength and vivacity; but the paging is not marked nor the connection preserved so as to guide the compiler. The specimens already given, both from the printed volume and from manuscript, will suffice in the department of the muses, as it was not there that he toiled for and gathered his brightest laurels. It is much regretted that a large quantity of his manuscript composition,—poetry and prose,—and nearly the whole of his correspondence, together with a valuable library embracing the best works in Latin, English, and French, on history and philosophy, were destroyed by fire with his dwelling-house in the city of Macon, in 1853. Though really a great loss to him, and such as would have depressed most other men, he never permitted a cloud to darken his brow. He knew the fertility of his own genius and the vigor of his own organization too well for sadness to follow such a misfortune.

It may be proper to acquaint the reader that Mr. Hall had renounced celibacy on the 22d day of March, 1848, by intermarriage with Miss Mary D. Ashe, daughter of the late Thomas Ashe, of Bladen county, North Carolina. About the 1st of January, 1849, he removed from Knoxville to the city of Macon, where he was taken into partnership with his eldest brother, Samuel Hall, Esq. His health in the mean time was feeble, and severe appli-

cation to office-labor was found to be injurious. The first speech* he made at the bar was in the Supreme Court of Georgia, held at Americus in July, 1850, on which occasion he displayed great legal ability in the argument, on a brief well prepared, which no doubt had its influence, as the decision was in his favor. From that time his legal character was established and his reputation onward.

Though a digression from the narrative, the author flatters himself to say that his personal relations with Mr. Hall were most cordial from their first acquaintance in 1850, and ripened into the purest mutual friendship. The following letter addressed to the author is in proof:—

MACON, February 10, 1852.

MY DEAR SIR:—This letter will be handed to you by Dr. —, of Virginia. In thus presenting Dr. — to you, I am performing what is to me a pleasant office of courtesy; for, while I am making the doctor acquainted with one in whom I know he will discover every quality that can render friendship desirable and association pleasant, to you I am introducing a gentleman who can appreciate your amiable traits, and in whom, I doubt not, you will find an agreeable companion, and, (if he shall carry out his design of settling in Oglethorpe,) I trust, a valuable friend. Dr. — desires a location for the practice of his profession. He is a gentleman of thorough medical education, and has had some experience in the city of Baltimore, both in medicine and surgery. He is the brother-in-law of a highly-esteemed connection of mine, and I feel interested in his success. Any assistance you may render him in effecting the object of his visit to your place will be added to the list of kindnesses for which I am already your debtor.

Truly, your friend,

ROBERT P. HALL.

The literary character of Mr. Hall attracted the friendship and civilities of William Gilmore Simms, LL.D., as the following letter will show:—

WOODLANDS, February 24, 1852.

ROBERT P. HALL, Esq.:

DEAR SIR:—Your poem of André Chenier has been received safely and read with pleasure. I thank you for the privilege of perusal in advance of the public. It is a thoughtful piece of narrative musing, contemplative and descriptive. The stanzas are generally well constructed, and fit well together. They need frequent pruning, however; but this will not be a difficult matter to you, under proper suggestion. Were you here, it would give me pleasure to read the piece with you and give you my notions as we proceed. As the matter now stands, however, you must exercise your own thought and vigilance, and courageously employ the knife. A poem that depends little upon its passion and invention, which

* In *Hollinshead, adm'r, vs. McKenzie*, 8 Ga. Rep. 457.

has few incidents, and which is chiefly descriptive and contemplative,—at most emotional,—requires to be exquisite of finish. I would not have you add or take away a stanza, if you will only trim up neatly (as you easily may) what you have written.

I find sometimes too great redundancy of epithet, and sometimes a feeble exposition of the thought, which a change of phrase and member would easily remedy. Altogether, however, there is less work to be done upon it than I had anticipated. There are some very sweet pictures of scenery and of domestic happiness, and many choice and delicate fancies, which require only to be freed of occasional words.

In answer to your request, I have only to say that if you publish I shall feel honored by the dedication. But I must also add that, if you calculate in any degree upon *profit* from the publication of poetry, you are probably destined to disappointment. It is very rare that young poets, or, indeed, any poets in this or any country, receive compensation for their writings. As a contributor of original verse to the magazines, you might earn a trifle, such as would scarcely be worth consideration. It is in this way only that my verses have ever brought me any money. If you should arrange for the publication of the poem under this caveat, and shall determine to print in Charleston where I could see the proofs, it would give me pleasure to revise it for you. There are one hundred and ninety-three stanzas. These, at three to the page, would (including title-page, preface, &c.) make sixty-five to seventy pages. This, for an edition of five hundred in cloth, would probably cost you — dollars. Of the sale I could tell you nothing, and promise nothing. All the things of the sort which I print, I print to give away. They rarely sell; and I seldom attempt to sell them. Should you make a *good* story of your novel, (by which I mean a story the interest of which is well kept up and animated,) you would be more likely to succeed in selling it.

All I can recall at present of *Pribes* you will find, I think, in Stevens's Georgia. I was struck with the narrative myself. On the subject of Indian traders, see Adair's *Indians*, and Pickett's recent volumes. I do not recollect any thing of Palmer's Agency. But see Hewatt's *History of South Carolina*, &c.

I notice what you say in reference to —. — will only publish for you if you pay *all* the expenses. He will then, precisely like all the Northern publishers, be indifferent whether the book sells or not,—will not offer it, and hardly advertise. If you will be counselled by me, you will publish it *anonymously*, as before, and let it go for what it is worth. After that, abandon all fictitious writing, whether prose or verse, except in such fictions as will enable you to exercise that faculty of invention you possess,—such as will enable you to devolve the *interest* upon the *incident*. I speak now with regard to the single object of deriving a profit from your labors.

I would recommend that, in publishing André Chenier, you would give it some such title as will show that you designed a purely contemplative poem: say, "*The Lament of André Chenier*," or something of the sort. I think you should introduce the poem with a brief biographical sketch of the subject and a few select specimens from his verse. I have said all that I perhaps need to say, dealing with you frankly. I wish that I could say more of an encouraging character. But you must be content to toil, to suffer, to work on, and wait. The poet must be *above* human reward if he would secure it.

I am, as usual, very busy. Next week I leave for the city, where I will be kept all the month of March on the Review. Do you attempt criticism? Write me in Charleston.

Yours very truly,

W. GILMORE SIMMS.

P.S.—I shall take “André Chenier” with me to Charleston, and leave it with Mr. Hart, the publisher, awaiting you.

W. G. S.

This letter is creditable both to the author of it and the gentleman to whom it was addressed. It exhibits a writer of mature fame, soothing and leading on, by friendly service, a youth of unquestioned genius, who had a reputation to establish. What became of the poem referred to does not appear. It has never been published, nor has its story or framework been made known to the author of this memoir. That it possessed a high degree of merit is clear from the testimony of Mr. Simms. Fortunately, Mr. Hall had other gifts more likely to secure fortune and eminence than the power of versification. The article written by Mr. Simms, and published in the *Southern Quarterly Review*, on the “Poems by a South Carolinian,” was flattering enough to comfort any votary of the muse, whether of eighteen or thrice that number of years.

The last production of the kind submitted to the author is a poem of some fifty pages in manuscript, incomplete, from the pen of Mr. Hall, entitled, “WENONA: a Legend of the Dalcotahs.” It abounds in beautiful delineations of Indian life, its simplicity, with the wild incidents and graces of forest brotherhood. Many passages might be selected of decided vigor and polish; but the space already occupied in this memoir by quotations makes it necessary to curtail.

It has rarely occurred that one so young has obtained such elevation in literary and legal pursuits. Nothing more need be said of Mr. Hall after introducing the expressions of the Supreme Court. If no other memorial existed, these would be a sufficient passport to fame. There is no instance on record where a more complete and unqualified admission of superiority has been made in a method so formal and from a quarter so much entitled to respect. In delivering the opinion in a case* argued by Mr. Hall, Judge Lumpkin said :—

I regret sincerely that the reporter is forbidden to publish *in extenso* the argument submitted by Robert P. Hall, Esq., in this case. It would constitute an abiding monument of his ability and research, and deserves to be preserved in an enduring form.

* *Wright vs. Hicks*, 12 Ga. Rep. 166.

At Decatur, in 1853, Judge Starnes also paid him a high comment in an opinion* he delivered:—

A very striking and interesting degree of professional talent was played by our young brother who presented this view of his case,—order of talent which, if he chooses, may insure him professional eminence and, what is better, distinguished capacity for usefulness among his fellow men. It cost us no small effort to disentangle what we conceive to be true distinction in the case from the ingenious web of his plausible earnest argument.

The reader can be at no loss, after this proof, to form a judgment respecting Robert P. Hall. That he was an extraordinary man must be admitted by all who were acquainted with him ever heard him converse. His command of language was wonderful. He could talk with the utmost fluency and correctness, blending poetic images with a severe process of reasoning for hours at a time, without hesitating for a single idea or word. He was accurately informed on all the political topics of the day, and never left a discussion without victory. His manner was courteous and pleasant at all times. Even his torturing irony and stern denunciations when provoked were marked by good breeding and elegant phraseology,—so that his adversary, when killed in argument, had the satisfaction to know that a *gentleman* inflicted the wound. Mr. Hall was an intellectual gladiator of majestic power and skill. He never dodged a blow, and never failed to return the thrust which soon ended the combat.

In his social character he was all that relatives or friends could desire. On this subject the author dare not trust himself to enlarge. He loved Mr. Hall as a brother, and it is his happiness to know that the attachment was reciprocal. The closing scene must now be related.

Mr. Hall was physically a strong man. His frame could have endured any amount of labor, had not his constitution been impaired by an attack of measles some five years before his death. This disease left his nervous system in a condition of great irritability, producing frequent paroxysms of colic and a tendency to bleed to the brain. His sufferings were often intense, but generally yielded to the usual treatment.

At September Term, 1854, of the Superior Court of Macon court he made his last speech. It was admired and praised by every person who heard it. He was gaining laurels on every ha-

* *Groce vs. Rittenbury*, 14 Ga. Rep. 235.

practice was flowing in upon him, and the predictions of the public were flattering with regard to his future. All desired to see what destiny he could accomplish. Alas for the instability of human prospects and calculations! In a few weeks this noble and gifted man was in his grave! After a short illness, he died at his residence in the city of Macon, on the 4th December, 1854, in the twenty-ninth year of his age.

The community was stricken with grief: a son of genius had fallen; a bright intellectual flame was extinguished! The press announced the sad event in terms of the highest eulogy on the character of the deceased, of which the following is an example from the *Georgia Telegraph*:*—

Upon the same day, with the interval of a few brief hours, ROBERT P. HALL, Esq., surrendered his soul into the keeping of the Creator. A better, brighter, braver spirit never animated mortal frame. He was only twenty-nine when he was taken away,—only twenty-nine when he was called from the pleasant scenes of earth to the dark valley of the shadow of death. A noble oak uprooted by the blast—an expanding flower withered by the frost—a soaring eagle pierced by the archer in its mid-career—a young star quenched in its glory,—such are the gloomy images suggested by this mysterious dispensation of Almighty God. He was with us so short a time ago, so full of health and strength and spirit, so mighty in body, so noble in intellect, and giving withal such brilliant promise of future usefulness and fame, that we can hardly credit the gloomy truth that he has passed from among us and will be seen no more.

He was a native of South Carolina, but passed much the greater portion of his youth in the neighboring county of Crawford, where his father, an eminent physician, still resides. In the vulgar acceptance of the term, he was not an *educated* man; that is to say, he had never received a regular course of academic and collegiate instruction; but in the true sense he certainly was. His stores of information were varied, extensive, and exact: he had naturally fine literary and scholastic tastes, which study had further cultivated and refined; the problems of science, the teachings of history, and the language of poetry were alike familiar to his mind; nor was it possible to know him without acknowledging the presence of a solid and stately intellect which was indebted for its superiority both to nature and to art. He was called to the bar in early manhood, and was passionately devoted to his profession and all that concerned its honor and advancement. He was only twenty-nine years of age when he died; but he had asserted and vindicated his superiority at the bar, and had already begun to rank, in the estimation of his legal brethren, with the oldest and ablest members of the profession.

But, alas! what avails this now? Death has placed his seal on his eloquent lips, and all the wit, and learning, and pathos, and high-souled honor which marked him above ordinary men lie buried in the grave. Just as the path seemed open before him, death came between; just as

* From the pen of Philemon Tracy, Esq., then Editor of the *Telegraph*.

the fruits of his early labors seemed within his grasp, death withered the outstretched arm; just as wealth, honor, fame, seemed to bid him stay, death called him away from all. Like a noble ship which, full freighted for her voyage, with sails all set and pennants gaily streaming in the wind, suddenly founders and goes down, so has he gone down into the tomb, laden with innumerable precious hopes, in the pride and flower of his days. Of the hearts crushed by this dispensation, of the fair promise blighted and the cherished visions dispelled, it were vain to speak. He leaves a wife and two little ones to mourn their protector gone,—aged parents to mourn the main stay taken from their declining years,—brothers and sisters to mourn for the pride of their household vanished,—troops of friends to mourn for the bright intellect extinguished and the gallant heart which shall beat no more.

That this our tribute to his memory is faint and feeble we well know; but we can say no more. He was our companion and friend; and our pen moves heavily along as it traces the characters which shall record his death.

The proceedings in the Supreme Court relative to the death of Mr. Hall are reported officially* as follows:—

TRIBUTE OF RESPECT TO R. P. HALL, ESQ.

SUPREME COURT OF GEORGIA, MACON, February Term, 1855.

The committee appointed on the occasion of the death of ROBERT P. HALL, Esq., a member of this bar, beg leave to submit through their chairman, Judge NISBET, the following report:—

Resolved, That Mr. HALL was known among us as a gentleman of education, with appreciating and cultivated taste in letters,—of genius, possessing a brilliant imagination, a clear and quick perception of the beautiful, and originating, creative faculties in a degree which entitled him to rank as one of the best thinkers of the State.

2. That we esteem him as having been a profound lawyer. His professional reading, for one of his age,—being at his death but a young man,—was very general, and his learning so accurate and various as to enable him to compete, not unfrequently with success, with the ablest members of this bar. As a pleader he had but few equals. His tenacious memory, sound discriminating judgment, industry, zeal, and ardent, rapid, yet logical oratory, had placed him on a level with the first men of his age in the profession, and warrant the belief that, had he been spared, he would have reaped its richest rewards and attained its highest honors. He delighted in the law, and studied it not alone as the means of acquiring an income or as preparatory to political life, but as a science in itself productive of the purest intellectual gratification.

3. That he was not the less remarkable for his social qualities, being frank, genial, and communicative, kind and liberal in his feelings, a respectful son, an affectionate brother, and a tender husband and parent.

4. That we deplore, in his death, a professional brother withdrawn from the honorable competition and fellowship of the law,—a man of genius,

* 17 Georgia Reports, 237.

stricken and prostrated when but beginning to ascend,—and a lawyer who seemed to be marked and sealed for distinction.

5. That when one who is our fellow is cut down by our side, in the pride of his intellect and the vigor of his manhood, by *Him* whose purposes are inscrutable and whose power is irresistible, remembering that we too are mortal, it becomes us to receive the warning, to be silent in awe, and with reverence to concede the sovereignty of God, and, in the light of that revelation which he has vouchsafed, to prepare in life for death.

6. That this court and bar, as a mark of respect to the memory of our deceased brother, will wear crape on the left arm for thirty days.

On motion of Mr. Poe, *Ordered*, That these resolutions be entered on the minutes of the court, and that the clerk do furnish a copy to the family of the deceased.

Judge LUMPKIN responded on behalf of the court as follows :—

During the nine years that I have been honored with a seat on this bench, how often has the attention of this court been arrested from its ordinary business to the contemplation of death ! Within that brief period many of the brightest legal lights of the State have been extinguished by the icy hand of Death !

How rich the trophies gathered to the tomb the past year ! DOUGHERTY, CHARLTON, JACKSON, TOWNS, HARRALSON, HALL, and GOULD are sleeping their last earthly sleep ! What a brilliant constellation to disappear from the professional firmament !

How frail and fugitive is human life ! *Pulvis et umbra sumus* was the classic commentary of Horace : “ what shadows we are ! ” the graceful translation of Burke. Ten thousand instruments of destruction are always near to do their fatal work ! Life is a fountain fed by a thousand streams, that perishes if one be dried ! It is a silver cord twisted with a thousand threads, that parts asunder if one be broken ! It is much more strange that we escape so long than that we die so soon !

How early did death enter this newly-formed world ! How ceaseless his ravages ever since ! One hundred and forty generations have already been swept away ! All that tread the globe are but a handful to the tribes that slumber in its bosom !

In the natural course of events, the thought may well have been indulged that the respective places of the deceased and myself would have been changed, and that he might at some future time have been called upon to perform a kindred office for one so much his senior in years. But Providence has seen fit to order it otherwise. Whom the gods love they take early to themselves. Abel expected, no doubt, to bury Adam and Eve. How little did these first fond parents anticipate the melancholy duty of interring their murdered son !

It is a relief to the aged, bowed down under the weight of threescore years and ten, to pass into the quiet slumber and tranquillity of the grave. Death is comparatively of but little consequence even to the middle aged, who are far on their way to their final repose, who have little to hope or expect from the future, and who are already beginning to realize that they are rapidly approaching the period when they can say of most of the things of this world, “ I have no pleasure in them. ” Such would not be very reluctant to throw down the burden of life and rest with those who feel not its wintry storms. But to see the young man, just springing upon the arena, buoyant as the courser as he enters upon

the track, cut off in the midst of his days, at the moment when we begin to anticipate the full blaze of the noon by the bright coruscations of the rising sun,—well might such a spectacle suffuse with sympathetic tears the cheek of the Son of God.

When the news of the death of England's great octogenarian Duke reached this country, we looked upon it as a natural consummation; and it was not his death, but his life, that rose before our eyes in all its greatness. But how different the sensation when the hope of the House of Orleans was prematurely struck down and the destiny of France changed for all after-time! We thought of the youthful hero of Antwerp and Algeria, the popular idol of his country, and felt sad that such a brilliant future was thus untimely cut off.

I will not undertake to portray the distinguished talents and virtues of our departed friend. This bar knew him well, and its sympathies have mingled with the tears and sorrows that embalm his memory. The eloquent tribute just delivered is heartily concurred in by the court. We can bear our testimony to the justice of the eulogium which has just been pronounced upon the social, moral, and professional qualities of the deceased. They will long be cherished with grateful satisfaction by us all. He never discussed a case that he did not give "aid and comfort" to the court. And it is that that gives to the court, in paying a tribute of affectionate respect to his memory, "a precious seeming to the eye." He was truly and emphatically, in this sense, entitled to the epithet of *amicus curæ*.

ROBERT P. HALL had a mind capable of the highest reaches of legal reasoning; and he left nothing unexplored belonging to the subject which he discussed. He never skimmed, swallow-like, over the surface of the science, but delighted in tracing legal principles to their fountain-head. And the very difficulty of the task served but to provoke his ambition.

His manner was luminous, earnest, and impressive, illuminating what was dark and obscure, as with a flash of lightning. He would pass from labyrinth to labyrinth with a mind free from confusion and with the most unwearied energy. His logic was conceived with a cogeny that bore itself onward in one continual stream of resistless argumentation. In freedom, and fulness, and fluency, his discourse resembled the Alpine stream:—"Wave followed wave, nor spent its force in vain." His memory was as capacious and retentive as his judgment was sound. Like his surviving brother, it seemed impossible for him to forget any thing he had ever read.

I have often sat, with all the solicitude of an elder brother, and seen him contending with the best talents of the bar; and, no matter what the odds might be in age and experience, I never entertained the least apprehension that he would be crushed in the struggle. He was one of those men whom the whole bar and bench of Georgia could not put down. And his assailants, instead of chronicling their attacks with the laconic *veni, vidi, vici*, were fortunate indeed if they were not compelled to write *veni, vidi, victus fui*.

Oh, it was a treat to see him wrestle in the forensic fight! Instead of skirmishing on the enemy's outposts, he did not hesitate for a moment to plunge at once into the "imminent deadly breach;" and, if he lost his case,—and what lawyer is not doomed occasionally to the pain of disappointment?—he never failed to sustain and advance his reputation.

ROBERT P. HALL is another living refutation of the absurd idea that

it is impossible for a man to be a fine scholar and a thorough lawyer. Who that has ever lived surpassed Lord Mansfield in jurisprudence? and how few equalled him in general literature! Are not the Commentaries of Sir William Blackstone the rich repository of the laws of England? and are they not at the same time models of pure English composition? Lord Stowell excelled almost all of his cotemporaries in the law; and yet he was the familiar friend and literary executor of Dr. Samuel Johnson. Away with such ridiculous prejudice! Sir James McIntosh, Sir Samuel Romilly, Story, Wirt, Pinckney, Legare, and a long list of the brightest names in Britain and this country, give the lie to this opinion, originating in the grossest ignorance, and too often fostered by sheer envy.

But our friend has passed from among us, and he will be seen no more until "the last day." At the early age of twenty-nine, when all were looking to him with great fondness of expectation, this gifted attorney, destined unquestionably to be one of the first men of the age, having already vindicated successfully his claim to equality with the ablest of his cotemporaries, is summoned away just as wealth, and honor, and fame were inviting his outstretched arm to seize the proffered prize of his high calling. The noble Arctic, with all her sails unfurled and her pennant gaily streaming in the breeze, has gone down to an unfathomable eternity, laden with happy hopes and precious promises.

The ways of Providence are inscrutable and past finding out. We must walk by *faith* and not by *sight*. His vacant office—his vacant seat in this temple of justice—preach eloquently to us that we too are born to die. Day unto day utters this sad truth, and night unto night repeats the solemn warning. Let this thought subdue our earthly passions and stamp with insignificance all our strifes and contentions.

To be left the widow and orphans of such a husband and father, who can contemplate, much less calculate, the loss? Let his aged parents and surviving brothers and sisters not weep and refuse to be comforted because the pride of their eyes and of their house is no more, but rejoice rather that he has lived and still lives in the bright record which he has left behind him,—in the reports of this court, in the high regard of his professional brethren, in the love of the community where he dwelt, and in the memory of his social and domestic virtues.

Let the resolutions be entered on the minutes of the court.

XIX.

JOHN HOUSTOUN.

PROBABLY there is no one living able to supply from personal knowledge materials for the biography of the first judge of the Superior Court of Georgia after the State Government was organized pursuant to the Federal Constitution. The name of JOHN HOUSTOUN is entitled to the highest respect; for he was indeed a man of strong abilities, of the purest patriotism, and of the most determined courage. A very brief notice of him is extracted from a work* lately published, and with it must end all inquiry into his career or merits. There is no other field to glean. That memoir of a single page is, however, full of meaning,—of trustworthy qualifications:—

JOHN HOUSTOUN, a son of Sir Patrick Houstoun, was among the earliest and most zealous advocates of the Colonies. At a crisis so momentous, it was fortunate for Georgia that there were men like Mr. Houstoun willing and able to serve her. On the 15th of July, 1775, he was appointed one of the Representatives of the Province to the Congress in Philadelphia; and the same honor was conferred upon him the 2d of February, 1776. His name would have appeared on the Declaration of American Independence, had he not been called from Congress to counteract the influence of the Rev. Mr. Zubley, a delegate from Georgia, who had suddenly left Philadelphia for the purpose of using his efforts at home against the Declaration. On the 8th of May, 1777, Mr. Houstoun was appointed a member of the Executive Council, and on the 8th of January, 1778, was elected Governor of Georgia. The invasion of East Florida had long been a favorite object of Mr. Houstoun; and soon after his elevation to the Executive chair he expressed to Major-General Robert Howe, then in command of the Southern department, his willingness to co-operate with him in this expedition. The force thought necessary for the expedition being raised, General Howe, accompanied by Governor Houstoun, proceeded against East Florida. Arrived at the St. Mary's River, numerous obstacles prevented further progress, and a council of war was called to decide whether a retreat would not be proper; and it was determined, under present circumstances, a retreat was not only expedient, but absolutely necessary. Governor Houstoun was a man of high spirit, and was unwilling to relinquish the command of the Georgia militia to General Howe; and this misunderstanding between the Governor and the general was probably one of the principal causes which led to the failure of the

* White's Historical Collections, p. 209.

expedition. In 1784, he was again Governor of Georgia. In 1787, in conjunction with John Habersham and Lachlan McIntosh, he was appointed a commissioner by the General Assembly, on the part and behalf of the State of Georgia, for settling disputes respecting boundary with the State of South Carolina; but he differed in opinion from the other commissioners, and protested against their proceedings. His protest may be found on page 666 in Marbury and Crawford's Digest. Mr. Houston was by profession a lawyer, comparable to any of his day. He died at White Bluff, near Savannah, July 20, 1796.

There is one omission in the above sketch which the author is enabled to supply, and that is the appointment, in 1792, of Mr. HOUSTOUN as Judge of the Superior Courts of the Eastern District. As his was the first commission to administer the laws under the new Government, a copy is inserted in this memoir as a specimen of the particularity of form at the close of the Colonial era. But an example of English proceedings will be first given, in reference to Chief-Justice Grover, his Majesty's "trusty and well-beloved," of whom the following documents testify:—

George the Second, by the grace of God of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth;

To our trusty and well-beloved William Grover, Esquire,—greeting:

We having taken into our royal consideration the loyalty, integrity, and ability of you, the said William Grover, We have, therefore, of our own special grace, certain knowledge, and mere motion, thought fit to constitute and appoint, and by these presents do constitute and appoint, you, the said William Grover, our Chief-Justice of and in our Province of Georgia: To have, hold, exercise, and enjoy the said office during our pleasure and your residence within our said Province, together with all and singular the rights, salaries, allowances, fees, profits, privileges, and emoluments thereto belonging or appertaining, with full power and authority to hold the Superior Courts of Judicature at such places and times as the same may and ought to be held within our said Province.

In testimony whereof, we have caused these our letters to be made patent under the seal of our said Province.

Witness our trusty and well-beloved Henry Ellis, Esquire, our Captain-General and Governor-in-Chief of our said Province, in the Council-Chamber at Savannah, the thirteenth day of April, in the year of our Lord one thousand seven hundred and fifty-nine, and in the thirty-second year of our reign.

By his Majesty's warrant under his royal sign-manual and privy-seal, dated at St. James's, the twenty-seventh day of November, 1758.

(Seal of y^e Col^y.)

HENRY ELLIS.

This authority is well expressed, and is grave and dignified, as becomes the magistrate. But it seems the judicial conduct of Chief-Justice Grover did not give satisfaction; and the next we hear of him he is thus referred to by the mandate of his Majesty's

Council, stripping him of all his official rank within four years from the date of his letters-patent:—

GEORGIA.—By his Excellency James Wright, Esquire, Captain-General and Governor-in-Chief in and over his Majesty's said Province of Georgia;

To William Grover, Esquire, and all others whom it may concern :

Whereas, on a due and impartial inquiry into the conduct and behavior of you, the said William Grover, as Chief-Justice of the Province aforesaid, his Majesty's Council have declared, That it appeared to them, and they are unanimous and clear in the opinion, that your conduct and behavior as Chief-Justice has been and is dishonorable, partial, arbitrary, illegal, indecent, and not consistent with the character, duty, and dignity of that office, and were also unanimous in opinion that you are unworthy of, and not fit to be continued in, the office of Chief-Justice of this Province, and that it would be for the honor and service of his Majesty and of this Province that you should be suspended until his Majesty's pleasure be known thereon :

Therefore, by virtue of the power and authority vested in me by his most sacred Majesty, I have thought fit to suspend and remove you, the said William Grover, from the office of Chief-Justice aforesaid; and do hereby accordingly suspend and remove you from the same and from all power and authority whatsoever relative thereto from henceforth until his Majesty's royal will and pleasure shall be signified.

Given under my hand and the great seal of the Province aforesaid, at Savannah, the fifth day of November, 1762.

Secretary's Office.

J. A. WRIGHT.

By his Excellency's command :

JOHN C. TALLEY,

D. Sec'y.

Nothing can be more explicit than this action of the Governor and Council. The improprieties alleged against the Chief-Justice were glaring enough to degrade him. Whether he was restored by royal command or left to a private station was not ascertained from the record. To the honor of our State judges, there can be no such document produced against any of them, no conviction of high crimes and misdemeanors, and no removal from office. There have been occasional investigations in the Legislature touching the official conduct of a few judges, but nothing has transpired to fix dishonor upon the ermine of Georgia since her emancipation from British rule.

The commission to Judge Houstoun is as follows:—

GEORGIA.—By his Excellency Edward Telfair, Governor and Commander-in-chief in and over the said State.

To the Honorable JOHN HOUSTOUN,—greeting :

Whereas, the House of Representatives of the State of Georgia did, on the twenty-second day of December in the year of our Lord one thousand seven hundred and ninety-one, at Augusta in the State aforesaid, agree-

ably to the Constitution thereof, nominate you and two others to be sent to the Senate for the appointment of one of the judges; and the Senate, on the same day of the same month, confiding in the patriotism, judgment, abilities, and good conduct of you, the said John Houstoun, thought fit to elect and appoint you, the said John Houstoun, one of the judges of the Superior Courts of the State of Georgia aforesaid.

These are therefore, in virtue of such election and appointment, to authorize and empower you, the said John Houstoun, and you are hereby fully authorized, empowered, and required to inquire (by oath of good and lawful men of the State aforesaid by whom the truth of matters may be the better known, and by other ways, methods, and means whereby you can or may the better know, at such day and times, and in such counties and places in the said State, as are ordered and appointed by the Constitution and laws of the same, or that may hereafter be directed) more fully the truth of all treasons, misprisions of treasons, insurrections, rebellions, counterfeitings, clippings, washings, false coinings, and other falsities of the moneys of this State and of other States, dominions, or kingdoms whatsoever; and of all murders, felonies, manslaughterers, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, unlawful assemblies, misprisions, confederacies, false allegations, trespass, riots, routs, retentions, escapes, contempts, falsities, negligencies, concealments, maintenances, oppressions, champerties, deceits, and other misdeeds, offences, and injuries whatsoever against the State aforesaid and the good people thereof; and also the accessories of offenders of the same within the said State, by whomsoever and however done, had, perpetrated, and committed, and by whom, to whom, when, how, and in what manner; and all such offenders so charged to try, and on conviction, (by good and lawful men as aforesaid,) judgment, and sentence, according to the laws of the land, to give and pass in mercy.

And also out of gaol and prison or other place of confinement any person or persons there illegally kept or detained to deliver, bail, or set at large, (as the case may be,) agreeable to the laws and ordinances in such case made and passed, and as to justice shall of right belong.

And further, these are to authorize and empower you, the said John Houstoun, as one of the judges aforesaid, to take cognizance of, hold pleas, try, hear, and determine by the oath of good and lawful men, by whom the truth of matters may be the better known, and by other ways, methods, and means you can, ALL CIVIL ACTIONS and causes of what nature soever: and all captures on land that shall arise or happen in the State aforesaid that may be brought before you by, between, or among the good people of the said State, in such manner and at such days, times, counties, and places in the State aforesaid as are directed by the laws and Constitution of the same, or that may hereafter be directed, and according to the nature of such suit or cause of action, so that right and justice be fully done in all things to parties at variance: TO HAVE, TO HOLD, EXERCISE, AND ENJOY the said office of one of the judges of the State of Georgia aforesaid, together with all the rights, salaries, fees, benefits, privileges, immunities, and perquisites, with the emoluments to the said office belonging or in any wise appertaining, in such full and ample manner as you, the said John Houstoun, as one of the judges of the said State, ought to have, enjoy, and receive.

And according to the trust reposed in you, the said John Houstoun, by the Representatives of the freemen of the State aforesaid, convened and

met in General Assembly as aforesaid, and for your so doing, this shall be your sufficient warrant and commission.

Given under my hand and the great seal of said State, at the State-House at Augusta, this seventeenth day of January in the year of our Lord one thousand seven hundred and ninety-two, and in the fourteenth year of the Independence of the United States of America.

EDW'D TELFAIR.

By his Excellency's command :

JNO. MILTON,

Secretary.

By way of contrast, showing marked simplicity, and yet containing the substance of all that is set out with prolific verbiage in the preceding document, the form of a commission is here given, issued about twenty years afterward, which continues in use at the present day:—

GEORGIA.—By his Excellency Peter Early, Governor and Commander-in-chief of the Army and Navy of this State and of the Militia thereof;

To the Honorable STEPHEN WILLIS HARRIS,—greeting :

Whereas, the General Assembly of the State aforesaid, by joint-ballot of both branches thereof, on the sixth day of November, eighteen hundred and thirteen, confiding in the patriotism, judgment, abilities, and good conduct of you, the said Stephen Willis Harris, did elect you Judge of the Ocmulgee District of the State aforesaid.

These are therefore, in virtue of such election and appointment, to authorize and empower you, the said Stephen Willis Harris, and you are hereby authorized and empowered, to do and transact and perform all and singular the duties and functions of a judge of the Superior Courts of the said district, agreeably to the laws and Constitution of this State, for and during the term of three years from the date of your said appointment; and, for so doing, this shall be your warrant and commission.

Given under my hand and the great seal of the said State, at the State-House in Milledgeville, this 6th day of November, 1813, and in the thirty-eighth year of American Independence.

PETER EARLY.

By the Governor :

AB. HAMMOND,

Secretary of State.

In reference to Judge Houstoun, only one further remark is considered necessary in justice to his fame. While he was acting as Governor in 1780, under the Articles of Confederation, an act* was passed by the royal Governor, Sir James Wright, with the consent and advice of the Council and House of Commons of the Assembly, declaring "John Houstoun, late of this Province, rebel

* See White's Historical Collections, p. 98.



Governor," and one hundred and fifty other patriots, disqualified from holding office, voting at elections, serving on juries, and imposing other disabilities on account of their resistance to his Majesty's laws.

As pertinent to this memoir, the author has in his possession a letter from the late Thomas Spalding, Esquire, who was licensed to practise law by Judge Houston. From some cause, owing no doubt to his large fortune obviating the necessity of labor in so hard a field, his taste for elegant literature and for extensive planting-enterprises, Mr. Spalding never made the law a profession. His life was eminently useful: his house was the resort of distinguished men from all parts of the country, while his improvements and his hospitality were the admiration of all visitors. He was a signer of the Constitution of Georgia in 1798, and afterward a Representative in Congress. He filled many important public trusts with signal ability and fidelity. The last act of his public life was as President of the State Convention in 1850, when the Georgia Platform was adopted. He was taken ill on his way home, and died at the house of his son, near Darien, January 4, 1851, at the age of seventy-seven years.*

In the *Georgia Journal and Messenger* of February 12, 1851, the following communication appeared:—

LANIER, January 21, 1851.

To the Editors of the Journal and Messenger.

GENTLEMEN:—About four months ago I opened a correspondence with several gentlemen of long standing at the bar, with the view of preparing a work to be entitled "Sketches of the Bench and Bar of the State of Georgia." Among the earliest answers I received was a letter from the venerable Thomas Spalding, whose death has been recently announced. I send you a copy, which you will please publish in connection with the enclosed circular.

Respectfully, your obedient servant,
STEPHEN F. MILLER.

SAPELO ISLAND, October 19, 1850.

DEAR SIR:—Your letter of the 10th of October I have received. It would give me pleasure to aid in any manner your work.

Admitted to the bar more than fifty-five years ago, every gentleman that was on the bench in Georgia for the first twenty years after the Revolution I had received kindness from, and personally knew, except one,—the old Judge Stith, whom I never saw. His son William Stith, afterward judge, I was intimate with. He was a good lawyer, an amiable and honorable and respectable man.

If I had any one to take down what I might say or what I remember

* See memoir in White's Historical Collections, p. 634.

of the men of the bench or bar of that distant time, the recollection would be pleasant to myself; but my daughters, who used to give me that aid, are all away and distant from me, and writing at my age has become painful and difficult. If you will direct your inquiries to any one or all of these gentlemen, I will answer them to the best of my remembrance with pleasure, as soon as my health or strength will permit.

Mr. Gibbons was my law-instructor. After my own father, he was the best friend I ever knew. He was a great lawyer, well read in his profession, which he acquired in Charleston under the direction of a Mr. Parsons, an Irish gentleman of high grade in the law. The result from his professional labors while I lived with him was three thousand pounds sterling a year. This I knew, as I was his collector and Mrs. Gibbons his treasurer. There was then no bank-paper. His note-book was to him of great value, for he had distinctly noted every important case that had occurred during his whole practice, giving the points on which it turned and the opinion of the judge; and, as these judges in those times were Judge Walton of Augusta and Judge Houstoun of Savannah, these decisions carried more weight with the jury than the decisions of the King's Bench.

Mr. Gibbons was not a very fluent speaker. He was very quick in discovering the weak point of his opponent, and his memory was always ready to give the law that bore upon it. His commentary upon the law was, in short, in clear, distinct terms, very pointed; and sometimes he indulged in witticisms, which increased as he grew older, from his intimate association with Peter Carnes the elder,—the wittiest lawyer I ever have known, and whose wit obscured his profound law-knowledge in the eyes of the many. Mr. Gibbons in his nature was very open, frank, and manly, and very determined. This gave him a few warm friends and many bitter enemies.

It gives me pleasure to state that Gen. James Jackson,—the noblest man with whom it has been my lot to be acquainted,—when I called upon him, as Governor, to give me a letter to Mr. King, our then minister in London, kept me to dine with him; and he asked me what were Mr. Gibbons's receipts from his profession. I replied, "Three thousand pounds per annum." "My own were about that amount when I unwisely left my profession for politics. Mr. Gibbons, *as a whole*, was the greatest lawyer in Georgia." Let me say to you that Gen. Jackson and Mr. Gibbons had exchanged three shots at each other: they were considered the bitterest enemies by the public. A high-minded man feels no enmity. In this way I can go through your list, if it suits you.

Yours respectfully,

THOMAS SPALDING.

STEPHEN F. MILLER, Esq.

(Circular.)

SKETCHES OF THE BENCH AND BAR OF GEORGIA.

I am collecting materials for a work in behalf of which I earnestly invoke the courtesies of the bar. It will embrace a list of the Colonial and State judges, with the dates of their respective commissions, so far as the official record may disclose,—an outline of our judicial system from its inception to the present time,—and biographical memoirs of distinguished lawyers who are dead. Occasional notices of the living will also be introduced. My steady aim will be to do justice through facts. There will be added a complete roll of practising attorneys, with the States of their

mativity and year of admission to the bar. In preparing this work I shall be greatly obliged to gentlemen for information—

1. Respecting deceased members who by their energy and talents rose high in the profession,—with an account of their early struggles, their first and subsequent locations, and their peculiarities before the court or jury. Of judges,—their usual method of presiding, whether prompt or dilatory, clear or diffuse in reasoning, and whether patient or restless under argument.

2. Anecdotes showing wit and humor in court or in social intercourse between members of the bar; also scenes with witnesses under examination, or with the bench, where the joke or the repartee excited attention.

3. Remarkable trials, with a brief notice of the difficulties both as to facts and law, the principal questions raised evincing research and adroitness, and also the judges and counsel who shared in the labor.

4. Old letters of a free and rambling character, too good to be lost, where privacy does not forbid their publication. Extracts from these would revive the memory of the dead and rescue many a gem from oblivion. If the originals are sent me, they will be held in confidence, and returned after copying such portions as shall be permitted.

5. Incidents of every description, picked up at random, such as may amuse by their drollness or novelty,—quaint sayings and jovial companionship, all forming a part of the lawyer's experience on the circuit.

From the foregoing the plan of the work may be fully understood. Some of the names which I desire to introduce biographically are—

JUDGES.—Dooly, Cobb, Walton, Early, Houstoun, Stith, Jones, Stevens, T. U. P. Charlton, Davies, Crawford, S. W. Harris, Griffin, Tait, Lamar, Reid, Montgomery, Gamble, J. Schley, Shorter, Gresham, Tracy, the brothers Polhill, &c.

MEMBERS OF THE BAR.—T. P. Carnes, R. H. Wilde, Gibbons, Noel, Upson, D. B. Mitchell, C. Harris, N. Ware, Van Allen, F. Walker, Rutherford, W. H. Torrance, S. Rockwell, B. Franklin, T. Fitch, O. H. Skinner, O. H. Prince, J. S. Frierson, W. Crocker, A. Martin, T. F. Foster, D. G. Campbell, J. W. Campbell, T. Glascock, J. C. Terrell, R. W. Habersham, G. Cary, E. J. Black, W. W. Gordon, R. A. Beall, J. Millen, J. M. Kelly, W. H. Anderson, &c.

Several gentlemen, one of whom was admitted to the bar in 1795, and others of forty and thirty years' standing in the profession, have heartily approved my object, and have promised me the benefit of their recollections. A fragment from one, and a brief sketch from another, comparatively, as leisure may permit, will afford materials for an interesting volume, which, if my correspondents will give me their early attention, I shall be able to deliver from the press during the year 1851, with several fine mezzotint engravings.

The bench and bar of Georgia are worthy of the intended memorial. *Let it be accomplished.* As to my qualifications, I claim nothing higher than patience and industry equal to the task.

STEPHEN P. MILLER.

XX.

JAMES M. KELLY.

THE profession will read with friendly interest the biography of the first Reporter of the Supreme Court of Georgia. His early life was checkered with good and evil; his last years were prosperous and happy; and it will be the object of the author to trace, with some degree of minuteness, a career the like of which, as a whole, has rarely terminated with so much credit.

JAMES MADISON KELLY was of Scotch descent, and was born in Washington county, Georgia, January, 1795. His opportunities for education were very limited; but still, obeying a natural bias, he contrived to read and improve himself sufficiently to act as clerk in a store. Finding his way to some relatives in Cumberland county, North Carolina, he was employed several years behind the counter in Fayetteville. Here he became an expert salesman and a fine book-keeper. Not satisfied with his prospects, and hoping to better his condition in some way, he returned to Georgia about his twenty-fifth year. It is known that he taught school in Twiggs county a while. He soon afterward became manager of the estate of James Johnston, deceased, who by his first marriage was the father of Young Johnston, Esq., late of Macon, and also the father of the first wife of the Hon. Thomas W. Harris, formerly Judge of the Superior Court of the Southern circuit. These facts are mentioned to connect Mr. Kelly with proceedings which, however disagreeable at the time, no doubt laid the foundation of his legal character.

In the year 1823, Mr. Kelly intermarried with Mrs. Amy Johnston, the widow, who was the mother of a younger set of children, one of whom was the first wife of the late Larkin Griffin, Esq., of the city of Macon. Mrs. Kelly had several slaves, and her dower, for her young husband to begin his fortunes. It may have been that the property of the estate was kept mostly together under his direction. At all events, Judge Harris set up claims which brought him and Mr. Kelly into antagonistic positions in court,—the former having sued out process, by virtue of which the latter was committed to prison. The particulars are not necessary to be stated. There was nothing to impeach the integrity of Mr. Kelly in the

matter; and at this point of his history, while gazing from the window of the debtors' room on the moving forms outside, and reflecting upon his situation, his soul took a panoramic view of life which it never abandoned to the last. A man of honest principles, as he felt himself to be, desiring knowledge, confined in jail for no crime whatever, yet in due form of law, his curiosity was excited to look into his *own case*, and to discover what kind of network or system of rules governed the country, depriving men of personal freedom, regulating titles to property, guarding and destroying reputation, life, and all that is dear to man.

After his discharge from prison, and working through the difficulty, he *reported the case* in a newspaper,—a beginning which, twenty years afterward, he matured into volumes with the most gratifying publicity. How strange, how truly romantic, the inception and the sequel compared! An overseer, a plain farmer,—his dwelling a prison, a love of strong drink ripening daily into a habit,—the future indeed appeared gloomy enough. Yet the moral landscape, however barren it might appear to others, had a rich coloring to his mind. Fame disturbed his dreams: how it was to be achieved he saw not. The hopeful nature of Mr. Kelly, his kindness of heart, his love of books,—of “Clayton's Georgia Justice,”—never yielded to despair. He was elected a justice of the peace; and never did Mansfield relish and dignify the King's Bench with more zest than Mr. Justice Kelly enjoyed on reading his commission, and in dispensing law “as he understood it.” He was applied to for a warrant against a man for hog-stealing: he issued it, had it returned before him, and gave *final judgment*. His book, written before the penitentiary of Georgia was established, prescribed thirty-nine lashes for the offence, without saying a word about trial by jury in the Superior Court. He ordered the accused to receive the stripes; and the constable, with a lively regard for the public justice, executed the sentence forthwith. The result was that a nest of hog-thieves was broken up: they fled from the county, and all *remaining* people shouted the praise of Justice Kelly. He was indeed a “terror to evil-doers.” His dockets and official papers, every process under his hand, all his *mandates*, were a model of neatness. “Before me, James M. Kelly, a justice of the peace in and for said county, personally came A B,” always heralded a correct description of the matter in hand, whether on the civil or criminal side of the court.

But the district of six miles square, with its monthly court, and thirty-dollar limits, was too small a field for his ambition. He

sighed for wealth as the ladder of promotion; and, to obtain it rapidly, he united in a commercial business with the late John McIntyre, in Marion, Twiggs county. In the year 1825, they laid in a stock of goods more or less suited to the market. McIntyre was then postmaster, and Kelly was made his deputy, thus constituting themselves partners in trade, partners in office. And there was another relation between them of a very cordial nature: both loved the bottle, vying with each other in the happiness it afforded; both waited on customers and then relieved their fatigue by sampling liquors. In less than twelve months, perfect disaster overwhelmed their affairs. McIntyre had been a book-keeper and notary public in the Branch Bank of Darien, at Marion,—had been deputy clerk of the Superior Court, was unrivalled in his beautiful penmanship and skill in accounts. He died, insolvent and a drunkard, two years afterward, leaving poor Kelly to bear the partnership-burden alone. He was compelled to sell the whole of his property for his creditors, and was perhaps assisted by the sheriff in this delicate operation. At all events, he *circulated* as a broken man, and was so held by merchants and others.

And here no disrespect is intended to either party, living or dead, by referring to a little circumstance. While Mr. Kelly was selling goods, a creditor* obtained judgment against him in Twiggs Inferior Court. Subsequently he sold a slave or two to a rich planter† in his vicinity, and also one slave to another neighbor,‡ to raise money. The execution was transferred to the first-named purchaser, who, for some cause, omitted to satisfy it out of the property he bought from Kelly, although it was believed he could easily have done so without loss to himself. The transferee had the execution levied upon the negro in the hands of the other purchaser, who interposed a claim. The issue was tried at July Term, 1827, on which occasion the author made his *début* for the claimant. The plaintiff's case was fully made out by the proof that Kelly had been in possession of the property, as his own, after the rendition of judgment. The ground taken by *counsel* for the claimant was that it was *unjust* and *oppressive* for the transferee to hold the execution open to pursue an innocent purchaser after he had ample means of the defendant in his hands to pay it; and the *legal presumption* was that, as the transfer was older than his purchase, and the levy subsequent to it, the execution was in fact satisfied.

* The late McCormick Neal.

† The late Gen. H. H. Tarver.

‡ Daniel W. Shine.

No authority was read to support this proposition ; but the *volume of reason and justice* was earnestly referred to as conclusive. The *page*, however, was not cited. Their Honors did not recognise any such *rule* in their court : they required a statute or a reported decision in point. Such not being produced, the jury found the issue for the plaintiff. A bill was afterward filed by the same *counsel*, alleging many severe *suppositions* ; but, on demurrer put in and argued by a prominent member* of the bar who then resided at Macon, the judge dismissed the bill ; and thus perished the first bantling at law and in equity which the author attempted to nourish. Though his commission as " Attorney, Counsellor, and Solicitor " (signed " O. H. Keenan, J. S. C. O. C.," at Clinton, April 24, 1827) is thirty years old, yet he has been half the time retired from the bar, engaged in other pursuits. Candor obliges him to say that his first case was a premonition of the success which has attended his professional labors since.

But this digression has served to show that Mr. Kelly was broken up in his fortunes in 1825 ; and it will hereafter appear that his license to practise law bears about even date with that of the author. In 1826, Mr. Kelly removed to Perry with very slender means. He brought with him a white pony and a dog, one of the two named "Lubin;" but his friend,† who shared equal adversity at the time, does not now recollect which of the animals was thus designated. Mr. Kelly also had a little remnant of goods, on which he opened a *shop*, and was a liberal patron of himself in the *grocery department*. His friend (who was raised a printer in Savannah) had taken a school, and, to refresh his intervals of leisure, imbibed potations from the "Blackstone" spring, while Mr. Kelly solaced himself from quite a different fountain, whose magic destroyed care, made crookedness straight, poor men rich, timid men fearless, and weak men strong—in visions of the mind ! The two friends compared notes, (not bank-notes, nor promissory notes, but a more abundant currency,—notes of distress,) when the Blackstone disciple kindly suggested his bill of fare as affording better sustenance than Mr. Kelly was deriving from his *merchandise*. The idea was at once accepted, legal studies diligently pursued, and at April Term, 1827, of Houston Superior Court, Judge McDonald presiding, a most creditable examination of two applicants was had, and two commis-

* The late John W. Campbell, Esq., uncle to the Hon. John A. Campbell, now an Associate Justice of the Supreme Court of the United States.

† Howell Cobb, Esq., of Houston.

sions issued, one of which, in course of time, was absorbed in "Cobb's Analysis and Forms," and the other was vacated when the first Reporter of the Supreme Court entered upon his official labors.

Now to the practical difficulties of the law. Mr. Kelly's maiden fee was to avenge his client against an adversary for killing a dog. A warrant was drawn up by the counsel and signed by the magistrate, with due solemnity, charging malicious mischief. The defendant was arrested, and, unable to give security for his appearance at court, was committed to jail to await the action of the grand jury. The friend at whose instance Mr. Kelly became a lawyer was associated with him in the prosecution. Passing the jail one day, he saw the prisoner looking through the grated windows, apparently satisfied with his lot. The idea occurred that the whole proceeding might possibly be without law to justify it; and, if so, a very beautiful action for false imprisonment would lie against his client, the prosecutor. Whereupon the two counsellors weighed the case, searched the books, reasoned together, and finally decided that the killing of a dog (especially a *fine* dog) was not a crime under the penal code. One of the counsel walked again by the jail, as if by accident, and exchanged salutations with the prisoner, expressing regret at seeing him deprived of his liberty. The prisoner appeared to be in no distress, and calmly remarked that "all things would work right." The counsellor suspected a design to sue for damages, and *graciously* proposed to have the matter arbitrated. The offer was agreed to, and two impartial men, one selected by each party, acted as umpires in the controversy. The gentleman* chosen by the prosecutor was a famous hunter, and fond of dogs: he led the arbitration. He maintained that dogs were valuable; that he prized his *hounds*, and would bear down upon any man who killed one, to the full *extent of the law*. He therefore proposed, as there was hardship on both sides, that the cost should be divided, the prosecution withdrawn, and the defendant set at liberty,—which was consented to, and made the award. Here the matter ended,—the first case of the future Reporter of the Supreme Court of Georgia.

Mr. Kelly collected as many law-books as his finances would permit, made good use of them, analyzed his cases well, traced out principles, and always came into court thoroughly prepared. He was not eloquent; his delivery was not captivating, nor was his

* The late John J. Owens, Esq.

manner graceful: still, he was always heard with interest. His excellent sense, his complete mastery of the facts, his persevering statements, and frequent repetition, if need be, until he was fully understood, made him quite successful,—so much so that parties considered their rights in safe hands when he was on their side. They knew he worked hard in his office, and could give them good reasons for his opinion. He advanced slowly, however, from the fact that his habits continued to be irregular. His friends trembled for him, and clients held off, all lamenting the unfortunate passion for strong drink. He was most formidable in justices' courts, in which he had a large practice. Having once presided in that forum, he knew what management was most likely to succeed, how much and what sort of law to produce, and what arguments to press. Frequently he met face to face his brother-lawyers of Perry before these tribunals. Then came the agonies of battle: there was no sham fighting: they did their very best,—put forth all their faculties in the law, and wrestled like valiant champions contending for the spurs of knighthood. It gave a fine opportunity to acquire self-confidence in debate and to brighten the whole professional armor.

At the session in 1828, Mr. Kelly was a candidate before the Legislature for the office of Solicitor-General of the Southern circuit. He and the author, with several other *striplings* in the law, competed for the prize, but were all beaten by the late Major Thomas Porter, who had a very influential relative (Col. John S. Porter) in the Senate, from Baker county. Of course, this little affair never in the least disturbed the kind personal relations which ever existed between Mr. Kelly and the author. They often alluded to it pleasantly, and expressed their satisfaction that the office devolved upon Major Porter, for the sake of his very interesting family.

As mementos of the olden time, the author begs to submit here two short letters, the originals of which are now before him, while his dear friend Kelly, who wrote them, is in his honored grave:—

PERRY, GA., March 27, 1830.

DEAR SIR:—A part of the money, \$——, on the case ——, the clerk informs me, has been collected. You told me when I was in Twiggs that you intended to give me the tax fee; and, if you are yet willing to do so, send an order to the clerk to pay me the tax fee.* The money which has been collected is ready for you, and the balance will be collected as soon as it can be done.

I am, respectfully, your friend,

JAMES M. KELLY.

* Then four dollars in each case sued to judgment. Mr. Kelly had represented the author in this case. The sum involved was quite small.

While at the Superior Court of Pulaski county, then sitting at Hartford, the author received on the same day it was written, through Benjamin Vernon Iverson, Esquire, the following:—

DEAR SIR :—At the last term of the Pulaski Superior Court, I was employed by Mr. — to assist Torrance in the defence of the case which has been instituted on his constable's bond, &c. Will you represent me in that case, and inform — of the fact that I have obtained your services in the case in his favor, as I cannot attend court? The favor will be reciprocated with pleasure.

I am your friend,
JAMES M. KELLY.

PERRY, April 12, 1830.

In a few years from this time, Mr. Kelly was so well established in his profession, and so much respected by the people of Houston county, that he was elected a Representative in the Legislature, where he proved to be a useful member. The trust was highly flattering, and he was grateful for it. His self-respect increased. Association with men of note, of active minds, of public spirit, of noble aims, whom he found at Milledgeville in a law-making capacity, roused his ambition; and he conferred with them on all topics of general interest, of party discipline,—on measures to secure popularity at home and fame abroad; and he toiled for these objects, as others toil for them, with constant assiduity.

By examining the Journals of the House, it might be ascertained on what committees Mr. Kelly served. As he was but a new member, it is hardly supposed that he was made chairman of any at the first session; yet, if the Speaker, or the usages in committee, allowed him the privilege of making reports, there can be no question that he prepared very neat and sensible documents on any subject referred. He was capable, and he loved to see his name in print. For it to appear on the Journal of the House, and in the newspapers, that "Mr. Kelly, from the Committee on the Judiciary," "Mr. Kelly, from the Committee on the State of the Republic," "Mr. Kelly, from the Committee on Finance," "Mr. Kelly, from the Committee on Education," "Mr. Kelly, from the select committee appointed to investigate the disorders of the currency, the defects of corporations, the expediency of restricting individuals to the enjoyment of their vested rights, and to punish those who may infringe the same,"—in fact, from any committee,—“Mr. Kelly, from the Committee on Enrollment,” would have been a happy position, rather than none at all in the work and publicity of committees. Let no man condemn this taste. Even Byron, who scorned trifles, says it is pleasant to see one's name in print. With such an example, who shall depreciate this noble passion as

vanity? If connected with great deeds and lofty purposes, it is well,—it is admirable. Napoleon delighted to see his bulletins in print, in reading the eulogiums of the press, and was chagrined at its censures. He often complained of them, and rarely forgave the authors.

Mr. Kelly was elected more than once to the House of Representatives, but how often, or in what years, the author is not informed. By accident he has in his possession a copy of the Senate Journal for 1839, which shows that, on the 4th day of November, "The Honorable Samuel Beall, Senator elect from the county of Wilkinson, having been called to the chair, the members produced their several credentials, and were sworn, agreeably to the Constitution of this State, and to support that of the United States, by the Honorable John S. Thomas, one of the Justices of the Inferior Court of Baldwin county, of this State, and took their seats, to wit:—" From the county of Houston, the Hon. James M. Kelly," who was one of eighty-eight Senators present on the first day of the session.

From his service in the other branch of the Legislature he must have acquired some reputation as a jurist; for we find that in the construction of the committees by the President* of the Senate, Mr. Kelly was made Chairman of the Judiciary Committee,—an honor indeed, if no influence but merit prompted its bestowal. The other members of the committee were Messrs. Alexander, Crane, Brown of Hancock, Williamson, Tracy, Harris of Warren, Stanford, Miller, Lewis, Pryor, and Billups.

The Journal has been glanced over, to see what bills, resolutions, or reports were ascribed to Mr. Kelly. The following is the sum, with the pages given:—

62. Mr. Kelly reported a bill to amend so much of the first section of the third article of the Constitution of this State as relates to the Supreme Court. Read the first time.

88. The bill being under consideration, and various amendments proposed, Mr. Kelly offered a substitute for the whole bill; upon the reception of which, the ayes and nays were recorded, and are,—Ayes, 29; Nays, 51. The vote was then taken on the original bill and rejected,—Ayes, 27; Nays, 59.

91. On motion of Mr. Kelly, the Senate reconsidered so much of the Journal of Saturday as relates to the rejection of the bill to alter and amend a part of the first section of the third article of the Constitution, and all action had thereon.

* The late Col. Robert M. Echols, of Walton county, who died in Mexico while in command of the Georgia regiment.

155. Mr. Kelly, from the Joint Standing Committee on the Judiciary, reported a bill to amend an act to authorize the Superior Courts of this State to appoint persons to assign and set off dower, and prescribe the mode of proceeding therein, and to define how dower shall be laid off and assigned. Read the first time.

178. Mr. Kelly laid on the table the following preamble and resolutions:—

Whereas, the late suspension of specie payments by the Bank of Darien and branches, and the consequent refusal of the officers and agents of the State to receive the bills of that institution in payment of the public dues, or of grant-fees, or debts due the Central Bank of Georgia, have had the effect to depreciate said bills below their real value; and whereas, the State owns near seven-tenths of the capital stock of the Bank of Darien, and, as such stockholder, is bound and liable for the ultimate redemption of its bills in the same proportion; and the last semi-annual report of said bank shows sufficient assets to redeem all liabilities at par, which assets will in a short time be available for that purpose,—

Be it therefore Resolved, &c., That the State Treasurer, the officers of the Central Bank, their agents and attorneys, and all other officers of the State, be and they are hereby required to receive the bills of the Bank of Darien and branches in payment of grant-fees or of debts due the Central Bank, and of all other public dues which are by law required to be collected and paid into the Treasury of the State or the Central Bank.

211. Mr. Kelly, from the Joint Committee of the Judiciary, to whom was referred the communication of the Treasurer enclosing a copy of a correspondence between that officer and the Cashier of the Georgia Railroad Company, touching the liability of the bank-capital of said company to taxation under existing laws, made a report, which was laid on the table for the present.

212. Mr. Kelly laid on the table the following resolution:—

“Resolved, That Allen Matthews have leave to withdraw from the consideration of the Judiciary Committee the memorial presented by him upon the subject of a digest of the general principles of the common law of force in Georgia.”

Which was taken up and agreed to.

808. Mr. Kelly moved to adhere to the bill of the Senate, to create a bank at Milledgeville, to be called the Central Bank, &c., and to reject the amendment of the House; which was agreed to.

811. The appropriation-bill for the year 1840 being under consideration, Mr. Kelly offered the following amendment:—

“And be it further enacted, &c., That the sum of thirty-one dollars and fifty cents be paid to the administrator of Alexander Broxson, deceased, for forty-two days' service rendered by said Alexander Broxson in Captain Hugh L. Dennard's company of mounted volunteers in 1836, the said Alexander having died in service without receiving any pay for said service, as is shown by the muster-roll of said Captain Hugh L. Dennard; and that the said money [sum] be paid out of any money in the Treasury or Central Bank not otherwise appropriated, and charged to account against the United States.”

On which amendment the yeas and nays were recorded, and are,—
Ayes, 31; Nays, 28.

This statement includes all, except motions occasionally, which have been omitted. It is not so fruitful of reports as might be justified by his position on the committee, into whose sieve a great deal of crude matter is frequently thrown to be cleansed from dust and rubbish. There is no evidence to prove, or ground to infer, that the chairman declined making reports *in extenso* whenever the opportunity permitted. He was not the man to shrink from the labor or the *éclat* of such performances.

Turning from his legislative career, in which no laurels bloomed for him in debate, another field is brought to view more within the scope of his capacities for distinction. Mr. Kelly had determined to become master of his profession, or, in other words, to exert his faculties to that end. His investigation was patient, minute, and systematic. Through the kindness of his late partner,* (a gentleman who does honor to the bar,) the author has before him "The Lawyer's Common-Place Book" of Mr. Kelly, which affords ample evidence of these qualities. One case has been selected as an example. It having been decided before the establishment of the Supreme Court, it is probable that the brief does not appear in the Georgia Reports. At all events, it may prove interesting to the profession; and certainly it is a monument to his industry and research, worthy of being incorporated in his memoir. Its length can be no objection with those who desire to know what constitutes a lawyer,—a thinking, hard-working lawyer. The paragraphs and sentences are preserved as Mr. Kelly noted them in the brief:—

Doe on demise of Summerlin	}	Ejectment in Pulaski Superior Court, and plea, general issue and statute of limita- tions, &c.
vs. Howell, tenant in possession.		

The defendant purchased the premises some twelve or fifteen years before suit brought, received a deed of conveyance from the person from whom he purchased, and went into immediate possession, and has ever since lived upon the land, and has improved it, &c.

The statute of limitations of North Carolina (see Revised Statutes of that State, vol. i. pp. 371 and 372) is in substance the same as that of force in this State, so far as respects suits for the recovery of land.

The wording of the statute of North Carolina is as follows:—"That no person or persons, nor their heirs, which shall hereafter have any right or title to any lands, tenements, or hereditaments, shall thereunto enter or

* John M. Giles, Esq.

make claim but within seven years next after his, her, or their right or title descended or accrued; and, in default thereof, such person or persons so not entering or making claim shall be utterly excluded and disabled from any entry or claim thereafter to be made."

Here follows provision for those who are disabled.

Compare this with our statute, (new Prince, p. 573,) and no difference in principle between the two acts can be perceived.

The decisions of the Supreme Court of North Carolina upon this statute cannot fail to meet with favor in our courts, because that statute is precisely like our own, and the principle involved is the same in both. The decisions of the Supreme Court of North Carolina on this subject are then applicable here; and, being consistent with the English rule, (differing only in regard to the length of time from that rule,) they would seem to have the force of authority.

It never was the intention of the Legislature, perhaps, to give a *mere* squatter title by the lapse of time, but to protect those who, *bona fide* and in good faith, became possessed and improved the land, believing their title to be sufficient. This seems to have been the intention of the Legislature of North Carolina, and hence color of title in that State must necessarily accompany the possession, according to the decisions of the judges. It is not intended to controvert that position now, nor to avow a different opinion. *But see hereafter.*

The North Carolina decisions are as follows:—

The act of limitations concerning lands was made with the intention that, when a man settled upon and improved lands upon the supposition that they were his own, and continued in the occupation for seven years, he should not be subject to be turned out of possession. Hence arises the necessity of color of title; for, if he has no such color or pretence of title, he cannot suppose that the lands are his own, and he settles upon them in his own wrong. *Grant vs. Winborne*, 2 Hayw. 56, (1798.) *S. P. Armour vs. White*, 2 Hayw. 69.

The possession of lands for seven years under color of title bars the right of entry, although the possessor knew, at the time he obtained his color of title and took possession, that the lands belonged to another person. Any other construction of the act of limitations would render titles insecure and frustrate the intention of the act. *Doe on dem. Reddick et ux. vs. Leggat*, 3 Murph. 539, (1819.) A bond to make title is no color of title. — *vs. Ashe*, 2 Hayw. 103, (1799.) The deed of a feme and her husband, to which she has not been privily examined, is a color of title. *Pearse vs. Owens*, 2 Hayw. 235, (1803.)

A devise is color of title, and seven years' possession under it bars the right of entry. *Doe on dem. of Evans vs. Satterfield*, 1 Murph. 413, (1810.) *S. P. Young vs. Irwin*, 2 Hayw. 9.

A constituted B his attorney "to levy, recover, and receive all debts due to him; to take and use all due means for the recovery of the same; and for recoveries and receipts thereof to make and execute acquittances and discharges." B sold to C a tract of land belonging to A, and conveyed the same as attorney of A. C entered, and had seven years' possession of the land. Held, that the deed of B as attorney of A, although he as attorney had no authority to sell the land, was color of title, and that seven years' possession under it barred the right of entry of A.

When a deed is executed, (which is afterward considered as forming only color of title,) the party executing it must be considered as not having a complete title to the land which he by his deed purports to convey. The heirs of Hill *vs.* the heirs of Wilton, 2 Murph. 14, (1811.)

A will constitutes a color of title, and, if accompanied with seven years' possession, will ripen into a perfect one. Trustees of University *vs.* Blount, N. C. Term Rep. 13, (1816.)

When both parties claim by descent from the same common ancestor, a color of title by virtue of such descent cannot be set up by one against the other, whatever may be the effect of descent in any other case. Doe on dem. of Midford et ux. *vs.* Hardison, 3 Murph. 164, (1819.)

A sheriff's deed, which recites the execution under which the lands in dispute were sold, as having been tested and signed by the deputy clerk, shall inure as color of title. Doe on dem. of R. & T. Jones *vs.* Putney, 3 Murph. 562, (1819.)

It seems that the return of the sheriff upon a *fi. fa.* is colorable title under the act of 1791, though no deed be made by the sheriff. Doe on dem. of Tate *vs.* Southard, 1 Hawks, 45, (1820.)

An unregistered deed is color of title. Doe on dem. of Campbell *vs.* McArthur, 2 Hawks, 33, (1822.)

An unconstitutional act of the Legislature is color of title. Episcopal Church of Newbern *vs.* Newbern Academy, 2 Hawks, 233, (1822.)

Seven years' possession under allotment of dower made to a widow, without previous notice to the infant heir-at-law, constitutes good title as against a stranger, although the allotment might have been reversed or set aside by the heir or those claiming under him. Rayner and wife *vs.* Copehart, 2 Hawks, 375, (1823.)

Color of title may be defined to be a *writing*, upon its face professing to pass title, but which does not do it, either from want of title in the person making it or the defective mode of conveyance which is used; and it would seem that it must not be so obviously defective that no man of ordinary capacity could be misled by it. Doe ex dem. of Tate's heirs *vs.* Southard, 3 Hawks, 119, (1824.)

Adverse Possession.—When a man has obtained a grant of land, he thereby gains a *constructive possession*, which continues until an actual adverse possession commences; and that adverse possession must be continued seven years before the *jus intrandi* or right of possession of the first grantee is lost. Doe ex dem. of Slade *vs.* Smith, 1 Hayw. 248, (1796.)

Cattle ranging in on land is not such a possession as is calculated to give notice to the adverse claimant that his land is occupied and claimed by another. Doe on dem. of Andrews *vs.* Mulford, 1 Hayw. 320, (1796.)

A single act of taking possession and then leaving the land will not do. *Ib.*

Feeding cattle or hogs, building hog-pens on land, or cutting wood from it, do not prove an adverse claim, and will not avail as possession, which, to be effectual, must be *notorious*, 2 Hayw. 56, (1798.)

The possession of part of a tract circumscribed by marked lines is a possession of the whole tract within those lines. Armour *vs.* White, 2 Hayw. 87, (1799.) S. P. Borrets *vs.* Turner, 2 Hayw. 97; S. C. 2 Hayw. 113.

The possession which bars must be adverse. Bloss *vs.* —, 2 Hayw. 223, (1802.)

Possession of part is possession of the whole, both parties having color of title. *Larkin vs. Miller*, 2 Hayw. 345, (1805.)

Constructive possession exists only when the party claiming has title to the land, and there is no one in actual possession claiming under the adverse title. *McMillan vs. Hapley*, 2 Car. Law Repos. 89, (1815.)

A plaintiff in ejectment who fails to prove possession within seven years must be non-suited. *Strudwick vs. Shaw*, Martin, 34; 3 Wharton's American Digest, page 196.

An uninterrupted possession and occupancy of land for five years previous to January, 1775, is a good title against a grant. *Anderson vs. Gilbert*, 1 Bay, 375.

Five years' actual adverse possession of a tract of land under a junior grant will give the defendant a title to so much as he has in actual possession, even against a person who has a paramount title and is in the constructive possession of the part in dispute. *Middleton vs. Duprees*, 2 Nott & McCord, 310.

Ejectment and trespass will lie in South Carolina, though the plaintiff, nor any one under whom he claims, never entered within sixty years before the commencement of the suit. To establish a claim under the limitation act, it is only necessary to bring suit within five years, when there is actual possession. *Frost vs. Brown*, 2 Bay, 135.

In an action of trespass to try title, the occasional cutting of timber, and the exercise of such other acts of ownership over it as men are accustomed to use over woodland, is not such a possession as will divest the owner of his right to the soil under the statute of limitations. *Bayley vs. Isby*, 2 Nott & McCord, 343.

In all cases where the party relies on possession right, the extent of the claim ought to be established unequivocally, and ought to have been uniform for the period required by the act, to give title. *Williams vs. McGee*, 1 Rep. Con. Ct. 97. Naked possession should carry with it only the spot occupied and superadded enclosures. *Ibid.*

Actual possession of a part under, or with unequivocal reference to a colorable title in writing, or a survey made by public authority, should establish a legal possession coextensive with the claim of title. *Ibid.* Actual possession of part of a tract of land well defined by use, or obvious and well-known boundaries, shall be coextensive with the limits of such boundaries. *Id.*

One who has received a conveyance, knowing it to be defective, may yet, after the expiration of the five years, plead the statute of limitations. *Strange vs. Durham*, 2 Bay, 409.

A title under the statute of limitations in a third person which would bar the plaintiff, if such third person were the defendant, will defeat his recovery against any other person. *Faysoux vs. Prather*, 1 Nott and McC. 296.

An adverse possession for seven years is a good bar to an action brought for lands since the first of January, 1816. *Moore vs. Farrow*, 3 Marsh, 49, (Kentucky Reporter.)

The settlement required by the act of limitations must be attended with residence: clearing and cultivating the land is not sufficient. *Hogg vs. Perry*, 1 Litt. 172.

The extent of possession, so as to determine the operation of the statute of limitations, is to be ascertained by the intention with which the entry was made. *Bodly vs. Coghill*, 3 Marsh, 615. The act of limitations of

1808, applies only to cases where an actual settlement was made. *Ibid.*

A claim and color of title sufficient to destroy all presumption that the defendant is in under the plaintiff, is adverse. *Jackson vs. Todd*, 2 Cain's Rep. 183.

To constitute an adverse possession, it is not necessary that there should be a rightful title: it must, however, be a possession under claim and color of title, and exclusive of any other right. Per Spencer, Justice, *Smith vs. Burtis*, 9 Johnson's Rep. 174.

Adverse possession is a question exclusively for the jury. *Jackson vs. Joy*, 9 John. Rep. 102.

That an adverse possession may be a bar, strict proof is required that it was hostile in its inception, and had continued so for twenty years: and the possession must also be marked by definite boundaries. *Brandt vs. Ogden*, 1 John. Rep. 156.

There must be a real and substantial enclosure, an actual occupancy,—a *possessio pedis*,—which is definite, positive, and notorious, to constitute an adverse possession, when that is the only defence and is to countervail a legal title. A fence made by felling trees and lapping them over upon one another round the land, called a possession-fence, is not sufficient. *Jackson vs. Schoomaker*, 2 John. Rep. 230.

The statute of limitations of 21 James I., chap. 16, is similar to our own. Our act, with some few alterations, is copied from it; and the only difference relating to the time within which suit for land must be brought is that in the English act the time specified is twenty years,—our act seven years. See note, Schley's Digest, pages 200–201.

The Bill of Bracery and buying of titles, 32 Henry VIII., chap. 9, sec. 2, (see Schley's Digest, 192) provides against the selling of pretended titles when the seller is out of possession.

The deed of a person out of possession, being void under this statute, does not preclude the grantor from maintaining an action of ejectment to recover possession of the same premises. 3 Johnson's Cases, 101; 1 John. Rep. 163; 5 John. Rep. 489.

It is not necessary for the party to be in the actual possession of the land in order to be able to make a valid deed: it is sufficient if there be no adverse possession held by another,—the object of the statute being to prevent the sale of pretended titles; and if there be no adverse possession there is no disputed right. 4 Bac. Ab. 495. For the last two paragraphs in Schley's Digest, note, page 194.

The Statute of South Carolina and the stat. 21 James II., chap. 6, are precisely the same. See Judge Cheves's decision in the case of *Williams vs. McGee*, Rep. Const. Ct. So. Ca., top page 42. Judge Cheves says that under the English statute the courts do not require any accompanying title to give effect to possession, and cites 1 *Ld. Raymond*, 741, *Ballantine in Lim.* 23; and adds, the very case of a *squatter* is stated, and said to be allowed by all the judges,—the case "If a cottage is built in defiance of the lord, and quiet possession has been had for twenty years, it is within the statute." *Ballantine*, 26; *Buller's N. P.* 103. *Ibid.*

The doctrine of color of title as a necessary foundation of acts of limitation is only to be found in the American decisions, in which it has been sometimes rather capriciously adopted, and almost always drawn from the peculiar phraseology of the particular act under consideration. *Ib.*

(*Note.* This is the case in No. Ca. See the case of *Tates' heirs vs. Southard.*)

Judge Cheves continues:—"In our act of limitation there is nothing requiring or authorizing it,"—i. e. color of title. (*Note.* The same may be said of the Georgia statute of limitations. As regards color of title, not a word is said about it,—nothing requiring or authorizing it.)

In the case of *Williams vs. McGee*, the cases of *Jones vs. Smith*, and *Gourdien vs. Theus*, are overruled, and the case of *Reid vs. Eifort* established as the law of South Carolina on the subject,—in which case it was decided—1. That a naked possession will give title; 2. That actual possession of a part, under certain evidence of claim, shall be considered a legal possession of the whole quantity claimed.

John C. Stanly vs. Thomas Turner, Conference Reports, 553. In this case, McCay, Judge, ruled that seven years' adverse possession without color of title would hold against legal title. Judge McCay, in his opinion, copies the act of 21 Jac. I., chap. 16, and quotes English cases, *Esp.* 430, 3 Black. 206, to show that the plaintiff must have a right of entry. "Therefore, (the judge says,) if the lessor of the plaintiff is not able to prove himself or his ancestors to have been in possession within twenty years before the action brought, he shall be nonsuited." And

The possession or entry of the lessor of the plaintiff within twenty years, which is necessary to give him title, must be an actual possession or entry, not a presumptive or implied one. *Esp.* 432; 2 H. 1142.

So that the twenty years' possession, which is sufficient to bar the ejectment or to give a title, must be an adverse possession; for, when it appears not to be adverse, the statute of limitations does not run. *Esp.* 433. In the case of *Reading vs. Royston*, 2 Sal. 423, this doctrine is more fully explained; also, in *Cowp.* 217. It is to be submitted to a jury to say what is an adverse possession.

Judge McCay, however, was overruled by Taylor and Locke, Judges, who held that seven years' possession without a color of title is not sufficient to bar the plaintiff in ejectment.

But see note to the end of this case. These three judges appeared to found their opinion on the principles advanced in the observations on the statute of limitations published by Judge Taylor. The case is referred to in *Adams on Ejectment*, (*Tillinghast's*,) top page 461. It is referred to there as in *Cain's & Norw. Rep.* 545,—when it is in Conference Reports by *Cain and Norw.*, page 533.

By reference to the North Carolina cases, it will be seen that the color of title owes its origin to the peculiar phraseology of the statutes of that State of 1715.

Judge Johnson's opinion as to the object of the statute of limitations, delivered in the case of *Richards and others vs. The Maryland Insurance Company*, 8 Cranch's Rep. 92, 93. See *Tillinghast's Adams*, 460.

The statute of limitations is intended, not for the punishment of those who neglect to assert their rights by suit, but for the protection of those who have remained in possession under color of title believed to be good. *McIver vs. Ragan*, 2 Wheat. Rep. 29, (per Marshall, Ch. J.) See *Tillinghast's Adams*, 461.

Statutes of limitation relate to the remedies which are furnished in the courts. They rather establish that certain circumstances shall amount to evidence that a contract has been performed, than dispense with its per-

formance. *Sturges vs. Crowninshield*, 4 Wheat. Rep. 207, per Marshall, Ch. J. See *Tillinghast's Adams*, 461.

To constitute a valid and effectual adverse possession, it is necessary—

1. That it be commenced under color and claim of title. It has never been considered as necessary to constitute an adverse possession, that there should be a rightful title. See cases cited in 9 Johns. Rep. 179, 180. Same point, 18 Johns. Rep. 40; do. 355; 3 Johns. Cas. 124; 13 Johns. Rep. 118; 5 Cow. 92, 350; 1 Cow. 609; 1 Cow. 285; 1 Hopk. Rep. 448; 3 Johns. Cas. 115, 117; 6 Cow. 680; Conf. Rep. 533; 2 N. C. Law Repos. 399; 1 Murph. 14; 3 Murph. 166. Adverse possession is a possession under color and claim of title. 9 Johns. Rep. 179, 180; 3 Conn. Rep. 403.

2. The act of limitations ripens no possession into title which is unaccompanied with color of title. 2 Hayw. 114, 104, 69, 57, 134; 1 Wheat. 480; 1 Har. & McHen. Rep. 151; 2 Hayw. 84; see *Tillinghast's Adams*, 461, 462.

The occasional exercise of dominion, by broken and unconnected acts of ownership, over property which may be made permanently productive, is in no respect calculated to assert to the world a claim of right; for such conduct bespeaks rather the fitful evasions of a conscious trespasser than the confident claim of a rightful owner. *Doe ex dem. Jones vs. Ridley*, 2 N. C. Law Repos. 400, (Ch. J. Taylor.)

CASES REFERRED TO.

1824. *Doe on dem. of Tate's heirs vs. Southard*, 3 Hawks, 119. Defines color of title.

1816. N. C. Term Reports, *Trustees of the University vs. Blount*, 13. Will, a color of title.

1811. 2 Murphy's Reports, 14, the heirs of Hill *vs.* the heirs of Wilson. Color of title.

1819. 3 do. do. 539, *Doe on dem. of Reddick and wife vs. Leggat*. Color of title with notice. 3 do. do. 562, *Doe on several demises of Richard Jones and Taunton Jones vs. Richard Putney, Sen.* Color of title by sheriff's deed.

1820. *Doe on dem. of Tate vs. Southard*, 1 Hawks, 45. Known and visible lines.

1796. *Doe on dem. of Andrews vs. Mulford*, 1 Hayw., top page 358 to 371.

Martin, 34, Wharton's Digest, 196. Plff. must prove possession within seven years.

Conference Reports, *Stanly vs. Turner*, 533.

Report Const. Court of S. C., top page, 42,—*Williams vs. McGee*.

1821. *Turnipseed vs. Lewis Busby*, 1 McCord, 279, 283. Possession must be continued.

1822. *Cabiness vs. Mahon*, 2 McCord, 273 to 275. The deed to show the extent of possession.

1 Johns. Rep. 156; 2 do. 230; 9 do. 102, 174. Ballantine on Limitations, 23, 26, n. Buller's *Nisi Prius*, 103, n. Schley's Digest, 192, 194. 1 Nott & McCord, 373,—great case. 10 Johns. Rep. 475; 8 Cranch, 229; 3 Washington, 475; Reeves' Dom. Rel. 32, as to maintenance.

In this case (at bar) it appeared that the grant to Geo. Flannagan bore date 10th Sept. 1830, and the deed to Howell, from Biving Brooks, was

older than the grant, (the deed bearing date in 1828.) It was contended, therefore, that Howell's possession was tortious,—that he was a trespasser, and not entitled to the benefit of the statute of limitations. Judge COLE, presiding, remarked that he was not entirely satisfied that a deed under such circumstances was sufficient to support an adverse possession, though he believed it was; and added that “any possession, when the party goes in bona fide and in good faith, and not in fraud, is an adverse possession.”

It is not necessary to dwell longer on the legal qualifications of Mr. Kelly, his standing at the bar, or his position in society. Enough has already been shown to place him on high ground in these respects. He had overcome, in a great measure, his habits of drink,—so much so, that he was considered a reformed man. As a just consequence, he valued himself more, and felt that it was his privilege to achieve much for his own happiness and that of others. He had set in motion, or had at least given an impetus to, a change in the Constitution, to authorize a Supreme Court for the correction of errors, while he served his only session in the Senate, 1839. The amendment for this object, after having received the proper formalities, became a part of the Constitution at the session of the Legislature in 1843; and, at the following session, “An act to carry into effect that part of the first section of the third article of the Constitution which requires the establishment of a supreme court for the correction of errors, and to organize the same, and to regulate the proceedings thereof,” was passed, and received the Executive approval, December 10, 1845. It was signed by Charles J. Jenkins, Speaker of the House of Representatives, Absalom H. Chappell, President of the Senate, and George W. Crawford, Governor.

The 12th section is here given, as creating the office which gave a new turn to the labors and fortunes of Mr. Kelly:—

12. *And be it further enacted*, That some fit and proper person shall be elected by the judges of said court, who shall hold his office during the term of six years, unless sooner removed by the court, and shall receive for his services a salary from the State of one thousand dollars per annum. Said reporter shall attend all the sessions of said court, and report, in a proper and professional manner, all the decisions there made, with the reasons therefor; and he shall not, during his service as reporter, appear as counsel or act as attorney in any case in any court in this State. The reporter shall, from time to time, publish in good and substantial form the reports so made as aforesaid; and if at any time he shall neglect to publish, within four months after sessions for each year have closed, the decisions of that year, he shall forfeit one-fourth of his salary for that year, and another fourth for every additional month's delay: *Provided*, that if the judges of said court, or a majority of them, shall certify that such delay was not

from any fault of the reporter himself, or those under his control, such forfeiture shall not be incurred. The reporter shall also be allowed the copyright. *And provided, further,* that he furnish, free of expense and well bound, one copy of said reports to each judge of said court for the time-being; one copy to the clerk of said court, to be kept in his office as public property; twenty-five copies to the State, to be delivered to his Excellency the Governor as soon as may be, said twenty-five copies to be disposed of as the General Assembly may direct; and a copy to each clerk of the Superior Court for each county in the State, to be kept in his office, free for the perusal of any one.

Pursuant to the act, the Legislature elected the Honorable JOSEPH HENRY LUMPKIN, EUGENIUS A. NISBET, and HIRAM WARNER, Judges of the Supreme Court of Georgia, who made choice of Mr. Kelly as Reporter. The following document was no doubt prized by the gentleman to whom it issued more than would have been a diplomatic mission of the first class from the President of the United States:—

STATE OF GEORGIA.—By his Excellency George W. Crawford, Governor and Commander-in-chief of the Army and Navy of the State and of the Militia thereof;

To JAMES M. KELLY, Esquire,—greeting:

Whereas, you were elected on the 26th day of January, 1846, Reporter of the Supreme Court of the State of Georgia, I do therefore, by virtue of the power and authority in me vested by law, hereby commission you to do and perform all and singular the duties incumbent on you as reporter as aforesaid, according to law and the trust reposed in you.

Given under my hand and the seal of the Executive, at the Capitol in Milledgeville, this 29th day of January, 1846, and of the Independence of the United States the seventieth.

By the Governor:

JOHN H. STEELE, *S. E. D.*

The first term of the court was held at Cassville, in March, 1846, to which six cases had been returned on writs of error. They occupy thirty-one pages of the first volume. The sessions of the court for that year ended at Milledgeville, in November, soon after which the reporter visited New York to publish his book, inaugurating a new authority in the judicial annals of the country. The task completed, and the reporter again at his post in Georgia, his solicitude is well expressed in the following letter to the late Hon. Edwin R. Brown, of Americus:—

PERRY, April 2, 1847.

DEAR BROWN:—I received your favor of 25th ult., enclosing \$25, upon my return from Cassville.

I feel highly complimented by your approval of my book. I have suffered intensely concerning it. No kind mother ever suffered more,

even over the dying couch of a favorite sick child. I nursed it diligently; and yet I was unable to accomplish the undertaking in the manner I desired. I promise that the next shall be altogether superior in the manner and style of its execution. I expect to begin its publication shortly, having already forty-five cases, creating an amount of legal matter equal to 1 Peters's Reports.

I have gained a store of knowledge in the way of book-making which, when I commenced the business, I did not dream of. I have labored hard; and Judge Kinne, of New York, assured me that no book of reports, of the same amount of matter, had been published in so short a time. Time is an essential requisite in the publication of such a work. The proofs should be carefully examined and re-examined, so as to correct all errors, and, in this, time and even deliberation are necessary. With bad manuscript and short time, errors will exist as matter of course. My first volume, however numerous the errors, contains more *correct* matter than any book of reports in the United States. It contains twice as much matter as Peters's, over twenty-five per cent. more than Cowen's; and, to average the reports extant, it may be set down at from thirty to fifty per cent. more matter.

With regard to the arguments of counsel, I was induced to set them forth *in extenso*, from the fact that, at the commencement of last year, we did not expect to have a sufficient number of cases to make a medium-sized volume; and hence I encouraged counsel to write out their arguments more at length, and promised to publish them,—which I felt bound to comply with. I shall in each succeeding volume publish a synopsis of the arguments, with the authorities cited, &c. In some very important cases I may publish the arguments *in extenso*. This, however, I must leave to my own sense of their importance to the profession and the courts.

I presented a copy of my reports to Chancellor Kent, and have two letters from him,—one acknowledging the receipt of the present, and the other—a month afterward—complimenting our court and bar in the highest terms for the legal learning and research displayed in the reported cases, &c.

I have received the case of *Guerrey vs. Perryman*, use *Dennard*, also your argument and *Hill's*; and I find a good deal of matter and some points in your argument which are not referred to in the decision, nor in the argument of Mr. Hill, nor in the history of the case as stated by the court. I shall therefore omit those parts in publishing.

At some time, if I can have an opportunity, I would be glad to give you my views as to the future course to be pursued in this case. I will now say that an order of *Twiggs* Superior Court should be obtained, giving *Durham* (the security) the control of the decree, he having paid as security.

The statute gives the security the control against his principal to remunerate, &c. Well, has not the security the exclusive right to control until reimbursed? If so, have *Guerrey* and the other complainants in the decree any right to control for the balance they claim until the control given the security by the statute has accomplished its end and purpose? The complainants (*Guerrey* and others in the decree) *elected* to force the money out of the security, with a full knowledge of his right to control the decree against principal after payment. Are they not, then, postponed in their right which they claim to the alleged balance due them on

the decree,—to the right of the security to reimburse himself out of the decree? Guerry owes Perryman, say \$1000. In equity he is considered as bringing the money into court. It is Perryman's money. It is claimed under the decree against him. Who has the best right to it? Durham, who controls the decree under the statute for reimbursement, or Guerry and others, who by their own act conferred this statutory power upon Durham by suing him and enforcing payment from him as security?

I remain truly your friend,

JAMES M. KELLY.

P.S.—The compensation to my feelings derived from the general approval by the members of the bar and the judges of my first effort is encouraging. Added to this, the consciousness of having done the very best I could, and of having spared neither pains nor expense to discharge my duty acceptably to my friends and the public, gives quiet to my mind, which otherwise would have been greatly disturbed. K.

The allusion in the foregoing letter to the necessity of careful proof-reading in law-reports brings to mind a late judge of the Supreme Court of another State. About the year 1840, the Legislature of Alabama abolished the office of reporter, and devolved upon the judges, by an increase of salary, the labor of reporting their own decisions and seeing them through the press. The volumes were published by contract at Tuscaloosa, then the seat of Government, where two of the judges* resided. The other judge lived in Mobile. The proofs, for several volumes, had been read by the two resident members of the court; but their distant associate, deeming it right to bear some of the burden, requested the publisher to send the proof-sheets to him every morning at the hotel, where he would read them before court-hour,—the Supreme Court being then in session at the Capitol. While the author (then connected with the press) held the manuscript, the near-sighted judge glanced hastily over the print, reading aloud, stopping occasionally to mark an error; but, while he called the words correctly, he allowed so many inverted letters, such wrong punctuation, and other defects in the matter, to escape him, that, on being told of it next time, he gave it up as a hopeless job, leaving the work to progress as before. From that judge—who was a profound jurist and a man of great energy of character (he died in 1847)—the author received a letter, which he inserts here by way of grateful remembrance:—

MOBILE, October 27, 1834.

DEAR SIR:—On my return to this place after an absence of some months, I found your letter of the 1st instant. I hasten to answer it.

* Collier and Ormond.

Mobile has been the most healthy point in Alabama during all the past summer; and, whilst all the interior part of the State has been visited with disease and death, this place has comparatively escaped.

I still think of Mobile as I mentioned to you when I had the pleasure of seeing you here. Since that time we have had some accessions to our bar, and more are spoken of. From the rapid increase of this place during the last year, property has risen to very high prices. The office I am now in (the same as when you were here) could be rented for five hundred dollars.

Should you determine to remove to Mobile, I have no question that you will find it an agreeable, and, I hope, a profitable, place to reside in.

I am, sir, your ob't serv't,

HENRY GOLDTHWAITE.

The mention by Mr. Kelly of a letter he received from Chancellor Kent has induced the author to submit one also from the same distinguished character, for the sake of the legal question solved in it. The author was not then in the practice of the law, but was the witness to a bond for titles to land. In the litigation which grew out of it, the court below rejected the secondary evidence, because the witness could not of his own recollection establish the contents of the lost bond. Believing the decision to be erroneous, he laid the case before Chancellor Kent, as follows:—

In a suit between A as plaintiff and B defendant, B offers in evidence, as material to his defence, the copy of a bond executed by A. The original was proved to be lost. The subscribing witness to the bond testified that he saw it executed, and that he, the witness, delivered it to another disinterested person. The person to whom the subscribing witness delivered the bond, testified that he received it from the subscribing witness, and that he took the copy submitted, word for word, from it.

Was the copy sufficiently proved to admit it, or was the subscribing witness the only person competent to prove the contents of the original?

The following is the reply:—

NEW YORK, August 25, 1838.

DEAR SIR:—I returned this week from a journey to the far-western counties of this State, and did not receive your obliging letter of the 16th ult. until after my return.

I answer the question you put with great pleasure. I am of opinion that the copy of the bond, in the case you state, was sufficiently proved to admit it in proof. The original being proved to be lost, and the copy proved to be exact, and taken word for word from it, and the execution of the original by the subscribing witness was duly proved, and the identity of the original bond, from which the copy was taken, duly proved,—and all this, I think, was amply sufficient to let in the copy in proof.

It cannot be necessary, and would be very inconvenient and unreasonable, to require the *contents* of an instrument to be proved by the subscribing witness. There is not a witness in a thousand that reads over the original at the time of attestation, and it would be impertinent in him to insist on it. All that he need testify is that he knew the obligor and saw him execute the instrument, and that he subscribed his name as a

witness, and that the instrument is in the state it was then in, without any material erasure, interlineation, addition, or mutilation made since, or that it appears to be so. In the case stated, the subscribing witness delivered the bond, *as executed and attested, to the copyist*, so that there could not be any mistake in the case.

The rule of evidence was fulfilled, that the *best evidence was offered that the nature of the case, under the circumstances, afforded.*

I am, with thanks for the kind manner in which you have been pleased to express yourself, and with my best wishes for your success and happiness,

Yours, truly,
JAMES KENT.

STEPHEN F. MILLER, Esq.,
Livingston, Alabama.

The case* referred to was taken up to the Supreme Court of Alabama, where the judgment below was reversed, thus coinciding with the opinion of Chancellor Kent. The question arose on an office-copy of the bond,—the law not requiring such instruments to be recorded, and making it, therefore, a mere private copy.

Mr. Kelly proceeded with his work of reporting in a manner creditable to his intelligence and legal acumen, and also to the satisfaction of the public, who perceived that the new system was about to accomplish what had long been desired,—uniformity in the administration of the courts. True, cases multiplied term after term in the appellate court; still, the fact was no objection to, but rather a proof of the necessity of, the corrective tribunal. It furnished the circuit courts a chart of the ocean of legal questions they had to navigate, marking lines from the judicial log-book just as a distinguished gentleman† of science has checkered the Atlantic with the tracks of a thousand vessels to show on paper the currents of the sea for the direction and safety of the mariner. In this work of revision constant difficulties have arisen. Almost every case presented a strange combination of facts,—some, of parties in interest, of latent equities, of secret trusts, of declared trusts, of color of right, of hardship, of equal diligence, of gross laches, of superior activity, of stolid indifference, in all the relations of property by descent, by purchase, and by *accident*. How to adjust these conflicting elements was a labor indeed. The judges, aided by the copious briefs and forcible arguments of counsel, delivered opinions as case after case was taken up on the docket, after issue joined. The judgments of the court may have

* 8 Porter's Reports, 546.

† M. F. Maury, LL.D., Lieutenant United States Navy, Author of "The Physical Geography of the Sea."

been *disagreeable* to the parties cast, and to their counsel who *sympathized* with them; but the record, the briefs, the opinions, the task of condensing the principles decided into head-notes,—all the mental and physical labor of this whole process, now to receive the finishing touch of the reporter for his forthcoming volume, was a real luxury to Mr. Kelly; and he enjoyed it with as much pride as a Cabinet-officer may be supposed to felicitate himself as the head of a department, to figure as such in the almanacs, in public documents, and on the roll of fame.

By the act establishing the Supreme Court, the reporter was prohibited from practising as an attorney in any of the courts of the State,—on the ground, it is presumed, that the Legislature thought all his time would be required to follow the court to Savannah, Hawkinsville, Talbotton, Americus, Macon, Decatur, Cassville, Gainesville, and Milledgeville, every year, and in preparing the cases for publication. At the session of 1847, however, this disability was removed, and Mr. Kelly resumed his very respectable practice. He was now realizing the fruition of all his hopes: his cup of happiness was full; and he well deserved it. Long had he patiently borne misfortune: long had he struggled for deliverance. With a buoyant mind, often sad, yet invincible, with hopes that in *his* obscurity had animated Erskine for the Chancery of England, the laborious Kelly held on, looked up, and saw brighter days ahead. He had passed through the crucible and had come out as refined gold, attracting friends, and daily increasing his fortune and reputation. He had shown himself possessed of a “valiant soul,” so happily described by a public writer* in relation to whom an extract is here given:—

Not to love Carlyle when you know him is something unnatural, as if one should say they did not love the breeze that fans their cheek, and the vine-tree which has refreshed them both with its leafy shade and its exuberant juices. He abounds himself in love and in good works. His life, not only as a “writer of books,” but as a man among his fellows, has been a continued shower of benefits. The young men, more especially, to whom he has been the good Samaritan, pouring oil upon their wounds and binding up their bruised limbs, and putting them on the way of recovery of health and useful energy,—the number of such can scarcely be told, and will never be known until the great day of accounts. One of these, who in his orisons will ever remember him, has just read to me, with tears of grateful attachment in his eyes, portions of a letter of counsel and encouragement which he received from him in the hour of darkness, and which was but the prelude to a thousand acts of substantial kindness and

* See Harper's Magazine, No. 5, vol. i., October, 1850.

of grateful attention. As the letter contains no secret, and may fall as a fructifying seed into some youthful bosom that may be entering upon its trials and struggles, a quotation from it will form an appropriate *finale* at this time. He thus writes:—

“It will be good news, in all times coming, to learn that such a life as yours unfolds itself according to its promise, and *becomes* in some tolerable degree what it is capable of being. The problem is your own to make or to mar,—a great problem for you, as the like is to every man born into this world. You have my entire sympathy in your denunciation of the ‘explosive’ character. It is frequent in these times, and deplorable wherever met with. Explosions are ever wasteful, woeful: central fire should not explode itself, but lie silent far down at the centre and make all good fruits *grow*! We cannot too often repeat to ourselves, ‘Strength is seen, not in spasms, but in stout bearing burdens.’ You can take comfort in the mean while, if you need it, by the experience of all wise men,—that a right heavy burden is precisely the thing wanted for a young, strong man. Grievous to be borne, but bear it well, you will find it one day to have been verily blessed. ‘I would not for any money,’ says the brave Jean Paul, in his quaint way,—‘I would not for any money have had money in my youth.’ He speaks a truth there, singular as it may seem to many. These young obscure years ought to be incessantly employed in gaining knowledge of things worth knowing, especially of heroic human souls worth knowing. And, you may believe me, the obscurer such years are it is apt to be the better. Books are needful; but yet not many books,—a few well read. An open, true, patient, and valiant soul is needed: that is the one thing needful.”

The ordeal passed, established in character and influence, and the future teeming with manly, virtuous enjoyment, Mr. Kelly looked to the reward of his ambitious longings with pleasant confidence. He had, indeed, already secured it. The name of Kelly had become familiar to jurists in other States. Alabama, Mississippi, Tennessee, South Carolina, Virginia, New York,—all had quoted “Kelly’s Reports.” The United States Digest, in a dozen large volumes, contained many references to Kelly’s Reports, along with Cranch, Dallas, Binney, Pickering, Johnson, Cowen, Brockenborough, Bay, Washington, Iredell, Porter, Bibb, Yerger, and that class of men who have contributed to the judicial literature of the country and the fame of the tribunals they severally represent.

Now, at an advanced stage of his progress, some special notice may properly be taken of Mr. Kelly’s mental organization, which thus far has been omitted. His mind was altogether plain and practical. He saw the relation of things, the bearing of principles, the conclusion of facts, without being dazzled into *chaos* by the meteor of imagination, which, like another *ignis fatuus*, too generally leads the intellect into bogs and brambles from which there is no escape. Many a genius has been entangled in this nicely-

concealed morass, and lost there without the power of extrication. Man has perils on every side. If born rich, as all desire that their sons should be, the probability is as a hundred to one that the individual thus *fortunate* will never bring his intellectual powers into full action, and that of course his wealth and his mediocrity of talents will be his only stake in life. Men are naturally too sluggish to work without compulsion, and there is no solid fame without labor—long-continued, intense labor—in the pursuit of a worthy object. It is wisely ordained,—blessings fairly distributed. The picture of an individual often seen by us all is thus drawn by a writer* of established renown:—

The poor man's son, whom Heaven in its anger has visited with ambition, when he begins to look around him admires the condition of the rich. He finds the cottage of his father too small for his accommodation, and fancies he should be lodged more at ease in a palace. He is displeased with being obliged to walk afoot, or to endure the fatigue of riding on horseback. He sees his superiors carried about in machines, and imagines that in one of these he could travel with less inconvenience. He feels himself naturally indolent and willing to serve himself with his own hands as little as possible, and judges that a numerous retinue of servants would save him from a great deal of trouble. He thinks if he had attained all these he would sit still contentedly and be quiet, enjoying himself in the thought of the happiness and tranquillity of his situation. He is enchanted with the distant idea of this felicity. It appears in his fancy like the life of some superior rank of beings; and, in order to arrive at it, he devotes himself forever to the pursuit of wealth and greatness. To obtain the conveniences which these afford, he submits, in the first year—nay, in the first month—of his application, to more fatigue of body and more uneasiness of mind than he could have suffered through the whole of his life from the want of them. He studies to distinguish himself in some laborious profession. With the most unrelenting industry he labors night and day to acquire talents superior to all his competitors.

He endeavors next to bring those talents into public view, and with equal assiduity solicits every opportunity of employment. For this purpose he makes his court to all mankind: he serves those whom he hates, and is obsequious to those whom he despises. Through the whole of his life he pursues the idea of a certain artificial and elegant repose which he may never arrive at, for which he sacrifices a real tranquillity that is at all times in his power, and which, if in the extremity of old age he should at last attain to it, he will find to be in no respect preferable to that humble security and contentment which he had abandoned for it. It is then, in the last dregs of life, his body wasted with toil and diseases, his mind galled and ruffled by the memory of a thousand injuries and disappointments which he imagines he has met with from the injustice of his enemies or from the perfidy and ingratitude of his friends, that he begins at last to find that wealth and greatness are mere trinkets of frivolous

* Adam Smith,—Theory of Moral Sentiments, vol. i. p. 244.

utility, no more adapted for procuring ease of body or tranquillity of mind than the tweezer-cases of the lover of toys, and, like them too, mere troublesome to the person who carries them about with him than all the advantages they can afford him are commodious.

It may be confessed, without disparagement to Mr. Kelly, that he had fixed his aims high; and who can blame him? There was a fascination in prosperity which led him on, step by step, to greater efforts, to a destiny proud and honorable, he hoped, yet unknown in the future. While men of more brilliant gifts, who had perhaps in years gone by looked upon him coldly, if not with disdain, were hurled from their ideal eminence and lay floundering in the dust, he, by his matter-of-fact mind, by his common-sense discrimination, with system to work upon, had obtained a position which the public recognised as peculiarly his own,—an honest man by his own merits rescued from failure after a long season of adversity.

It is to be much regretted that the useful life of Mr. Kelly was so soon to terminate, just as he had attained the acme of his wishes. He completed his second and third volumes, and, by the aid of the gentleman* who has since succeeded him in the office, had brought out the fourth and fifth volumes, the series being changed to "Georgia Reports," soon after which he closed his earthly career. He died at Perry, on the 17th day of January, 1849, deeply lamented by his friends and by the whole community in which he had passed more than twenty of the best years of his life.

The author had been intimate with Mr. Kelly during fifteen years,—from their first acquaintance in 1824 until the winter of 1839, when they saw each other for the last time. That he had foibles is not denied; but, objectionable as they were, they were relieved of all grossness by the abiding love of excellence which pervaded his nature. Before Mr. Kelly came to the bar, he often expressed to the author his desire of acting a conspicuous part in the legislation of the country and in the administration of its laws. He loved to read well-written articles in books and newspapers, and occasionally entertained the author by reciting fine specimens. And here it may not be amiss to say that the kind words of Mr. Kelly stimulated that passion for books and improvement which had ever been more or less active in the mind of the author, though he saw no way open either to Mr. Kelly or himself,—for neither

* Thomas R. R. Cobb, Esquire, the efficient reporter and compiler, so highly respected by the profession.

had as yet commenced, or even talked of, the study of the law. The fact inspires tender recollections, and brings the romantic past in pleasing yet sad review, as the generous Kelly afterward triumphed and fell honored in the grave, leaving the author the melancholy privilege of adding this memorial of friendship.

Whoever visits the graveyard near Perry will see a handsome marble tomb, on which is engraved the following:—

Sacred to the memory of JAMES M. KELLY, Esq. Born in Washington co., Ga., January, 1795. Died in Perry, Houston county, Ga., January 17, 1849, aged 54 years. Respected and beloved, he lived and died an honest man. Maj. Kelly was the first Reporter of the Supreme Court of Georgia.

In the sixth volume of Georgia Reports, p. 115, may be found an expression by the court and bar which will ever be read with solemn interest. The response of Judge LUMPKIN is indeed touching to the heart. The official record is as follows:—

SUPREME COURT OF GEORGIA.

TALBOTTON, January Term, 1849.

Monday, January 29.—The death of Major JAMES M. KELLY, the Reporter of this court, having been announced to the court, on motion of Grigsby E. Thomas, Esq.,—

Resolved, That a committee be appointed of three members of the bar of this court to draft a suitable memorial on the death of our worthy brother, and report on the opening of the court to-morrow morning.

Whereupon the court appointed Messrs. G. E. Thomas, Hines Holt, and Marshall J. Wellborn that committee.

Tuesday, January 30.—G. E. Thomas, Esq., from the committee appointed yesterday, made the following report, which was unanimously adopted and ordered to be entered on the minutes:—

The melancholy tidings of the death of our brother, JAMES M. KELLY, and late Reporter of the decisions of this court, having reached us, we delay not to make a suitable expression of our grief, and to tender to his memory that tribute of respect so justly due. By his bland and obliging manners, his amiable and discreet deportment, he had not only endeared himself to this court and to his professional brethren, but to all who knew him. In the private walks of life he was the man of integrity and honor, of sympathy and kindness. He was remarkably accurate, systematic, and neat in the execution of his business, and is a striking example of how much punctuality and method may accomplish. He struggled manfully and successfully against poverty, and overcame, by studious application, those impediments which the want of early advantages entailed upon him. He has left behind him some evidences that he was both a patriot and statesman; and his recent work of *Reporter* is sufficient to hand him down to posterity as a jurist.

Therefore, Resolved, That we truly deplore the death of our much-esteemed brother, JAMES M. KELLY, late Reporter of the decisions of this court, and we regard the event not only as a loss to this court but to the community.

Resolved, That we sincerely condole with the afflicted and bereaved family of our deceased brother.

Resolved, That, as a token of respect for him, we will wear the usual badge of mourning thirty days.

Resolved, That this memorial and these resolutions be entered on the minutes of this court, and that a copy of them be forwarded to the family of the deceased by the clerk of this court, and that he likewise furnish a copy to the editors of the *Federal Union*, and *Messenger and Journal*, for publication.

Upon the reading of these resolutions, Judge LUMPKIN, in behalf of the court, responded as follows:—

The present term of this court is overshadowed with gloom. We are called on for the first time since its organization to deplore the loss of one of its official members. We have met to-day, not to listen to forensic discussion, not to have our minds charmed and our attention chained by "fancy's flash and reason's ray," but to contemplate the mansions of the dead,—to sit sorrowfully beneath the shades of the cypress and the willow.

Of what momentous importance did life—big with promise and buoyant with hope—appear to us yesterday! To-day, how sunk in value!—"worthless as the weeds that rot on Lethe's wharf."

It was my misfortune not to know Major Kelly until his election to the office of Reporter, which he so worthily filled from the first constitution of the court till his death. His industry and zeal at the bar and in the halls of legislation will long be remembered by his associates and cotemporaries. He has added another to the countless number of examples, in this free and happy country, to show that *merit* is the sure road to fame and fortune.

But, however short our acquaintance, it gave rise to an attachment of no ordinary character. It is well known that when the court-bill passed in 1845 a large majority of the people were decidedly hostile to it. To secure its enactment, by accommodating its provisions to the wishes of all, it contained inherent defects well calculated to insure its miscarriage. To obtain the services of suitable men under these circumstances to fill the offices and to steer the ship through a crowded sea of contrary winds was a task of no ordinary difficulty. Who was willing to risk what little reputation he might have acquired by a lifetime of toil,—to be crushed, perhaps, forever beneath the superincumbent ruins of a fallen fabric? To construct and put in operation a machine is the Herculean task; to guide its subsequent movements is comparatively an easy matter. The appointing-power, under the law creating the court, felt greatly encouraged, therefore, when one of such responsibility and worth as our departed associate consented to serve as Reporter.

How often, after days and nights of labor which knew no intermission, has our little household assembled in anxious consultation about the fate of the frail bark in which we were afloat! We shared a community of hopes and

fears. And none but the passengers in the *Mayflower* in quest of a new world, with no friendly star, auguring success, to guide through a trackless and hitherto-untried sea, can realize our situation. By unrelaxing exertion, and by unity and concord such as have rarely distinguished the counsels of any body of men, the dangers of the ocean have been weathered and the vessel has been safely anchored in port. Whatever may become of the early voyagers, the enterprise itself is beyond peril. A landing has been effected on the *rock* of Plymouth. No cause less powerful than death itself can dissolve a friendship thus formed!

We always found in the deceased an ardent and devoted auxiliary. Having no offspring on which to lavish his parental fondness, "*Kelly's Reports*" became the *Benjamin*,—the pet of his old age. And it is matter of congratulation that he lived to witness the full triumph of this experiment,—the new organization of the judiciary,—to see one session of the Legislature intervene without any attempt to disturb the court, and one of the judges, whose term had expired, re-elected to a full tenure of office.

Did the occasion justify it, we would delight to dwell on the public and private virtues of our companion. His patriotic bosom was always warm with love of country and bright hopes of her happiness and prosperity. In common with many others, we have shared his generous hospitality, marked his amiability in domestic life,—his uniform courtesy and urbanity at the bar and in the social circle. But we forbear. The language of grief is not sufficiently clear and discriminating to attempt the accurate delineation of character. The heart must be assuaged before such a portrait is undertaken.

In this sudden bereavement we fully mingle our sympathy with that of the profession, his disconsolate widow, and a large circle of attached friends. We dare not arraign the dispensations of Providence. Heaven alone can pour balm into the severe wound which has been inflicted; it alone can soothe the suffering survivor and comfort the mourner; it alone can heal the broken-hearted.

NOTE TO THE MEMOIR OF J. M. KELLY.

Supposing it might gratify members of the bar, the author annexes a table showing the number of cases taken up by writs of error to the Supreme Court of Georgia, the names of the several judges of the Superior Court who certified the bills of exceptions, and a statement opposite to each name of the judgments below affirmed and those reversed since the organization of the Supreme Court in 1846, including the cases reported from 1 *Kelly* to 19 *Georgia Reports*, 1856:—

CIRCUIT JUDGES.	CASES.	AFF'D.	REV'D.	CIRCUIT JUDGES.	CASES.	AFF'D.	REV'D.
1. Alexander,	133	65	68	20. Jackson, H. R.	21	13	8
2. Andrews,	15	8	7	21. Jackson, J.	40	24	16
3. Baxter,	15	9	6	22. Johnson,	23	12	11
4. Brown, E. R.	1		1	23. Love,	8	3	5
5. Bull,	25	13	12	24. Lumpkin,	48	19	29
6. Cone,	1	1		25. Merriwether,	42	21	21
7. Crawford,	26	16	10	26. Perkins,	86	38	48
8. Dougherty,	25	10	15	27. Powers,	148	71	77
9. Fleming,	47	32	15	28. Sayre,	27	10	17
10. Floyd,	97	49	48	29. Scarborough,	24	14	10
11. Gamble,	6	4	2	30. Stark,	134	81	53
12. Gibson,	1		1	31. Starnes,	17	14	3
13. Hansell,	18	8	10	32. Taylor,	7	3	4
14. Hardeman,	20	11	9	33. Thomas,	4	3	1
15. Hill,	100	52	48	34. Trippe,	40	16	24
16. Holt,	50	32	18	35. Warner, O.	23	16	7
17. Hooper,	4	2	2	36. Warren,	113	55	58
18. Irwin,	23	15	8	37. Worrill,	55	29	26
19. Iverson,	93	49	34	38. Wright,	49	20	29
				Total,	1604	836	768

XXI.

LUCIUS Q. C. LAMAR.

THE correspondence in this memoir bears such complete and honorable testimony to the merits of Judge LAMAR, that nothing can be added to place his character to better advantage before the public. The author is indebted to the late Richard K. Hines, Esq., for prompt replies when the plan of this work was first announced. His letters derive a melancholy interest from the fact that the same hand which had engaged to chronicle the worth of his friend Lamar has now the opportunity of paying a just tribute to his own excellent character, when he himself is in the grave.

Although the letters of Mr. Hines were intended for the eye of the author alone, there is no impropriety in submitting them entire, except the passages which do the author more than justice; and,

lest the omission of these might imply a force of compliment not in the language used, nothing has been suppressed. Death has imparted its seal to the manuscript, and makes that precious which from a living source might be regarded as mere empty laudation. It is soothing to listen to friendly words which can never be recalled :—

MACON, January 27, 1851.

DEAR SIR :—Your esteemed favor of 21st inst. was duly to hand, and contents noticed. I am glad that you have undertaken the work of preparing memoirs of the Bench and Bar of our State who are now numbered among the dead. The undertaking is a noble one, and it is in good hands. I have no doubt you will meet with all the aid in prosecuting it that you will desire.

My time is so absorbed in business that I cannot promise to furnish any information except in relation to Judge Lamar. My obligations to him while living were such, and my admiration of the man so great, that I feel it to be a duty to lay aside every thing else, to procure you as far as practicable the materials for delineating the character of one so pure and exalted. I have applied to Dr. Lamar, his brother, to furnish me the incidents of his early life. He has promptly consented to hand me, in a few days, what facts and incidents he may be able to group together. I have also written to Henry B. Holcombe, now of Mobile, formerly of Augusta,—an intimate friend of Judge Lamar, and with whom he corresponded regularly,—for any letters or information which he has that might be serviceable in preparing your notice of him. I will likewise have the files of the Milledgeville newspapers examined, and send you copies of several decisions of his which gained him high renown as a jurist,—also copies of the resolutions adopted by the Ocmulgee bar on the occasion of his melancholy death, and the epitaph which the bar of Milledgeville indited for his monument; and all other information which I can get from any quarter shall be placed at your disposal.

You would do well to write to Major Joel Crawford, now of Early county, who was a copartner of Judge Lamar, and familiar with his whole career from his commencement of life, and who, I am sure, will take great pleasure in furnishing you with any information he has. So soon as I can collect such materials as may be within my reach, you will hear from me again. Meanwhile, if you have not written to Mrs. Lamar, the judge's widow,* now residing at Oxford, let me know; and, if you desire it, I will get Dr. Lamar to apply to her for any letters, papers, or other information which she may have.

If you intend to embellish your book with likenesses of the subjects of your notices, I think Mrs. Lamar has a very faithful one of her husband. I will take the liberty of suggesting that this would be very desirable, no doubt, to the family of the parties and to the public, and would very much enhance the estimation of the book and the sale of it, if the additional expense would not be very great.

Excuse this desultory epistle, as our court is in session, and I have

* Since intermarried with Hiram B. Troutman, Esq.

been forced to write in great haste; and believe me to be, very truly, yours, &c.

R. K. HINES.

In due time, another letter was received by the author from Mr. Hines, enclosing one from Mr. Holcombe, cashier of the Branch Bank of Alabama at Mobile:—

MACON, March 1, 1851.

DEAR SIR :—I cannot forego the pleasure of submitting to you at once the enclosed letter from Henry C. Holcombe, Esq., now of Mobile, whose opinions of your forthcoming work you cannot fail to appreciate, especially when assured, as I take great pleasure in stating, that the same opinion is expressed by all who have heard of your undertaking. As I have not time to copy, you will please preserve and return the letter to me when you return other papers that I shall send you soon, I hope, for the memoir of Judge Lamar. I wrote to Mrs. Lamar for his portrait, and will keep it until you want it. Gen. M. B. Lamar is expected here in a few days. He, and Dr. Thomas B. Lamar, with whom I have communicated freely, will prepare a sketch of the judge, which I will send you in due time, with other papers now being gathered up.

On the other side you will find the inscription on the monument over his grave. He was buried in the common graveyard at Milledgeville. The epitaph was written by Major Iverson L. Harris, and adopted by the local members of the Milledgeville bar, where he lived and died.

Yours, very truly,

R. K. HINES.

As Mr. Holcombe is still living, (a very upright and intelligent gentleman, who might not be gratified to see his very partial opinions of the author in print,) certain portions of his letter to Mr. Hines are omitted. The following extract is dated Mobile, February 23, 1851 :—

In regard to any agency I can bear in placing Major Miller in possession of facts and incidents to enable him to elucidate the true character of the late Judge Lamar, you and he may rest assured that *my will is good* to do all I can. In such a cause I can truly say that no "toil would be too great, no task too hard," that I would not encounter with delight. But I presume you know well the *peculiar nature* of the relations which existed between Judge Lamar and myself from our first acquaintance—which was in our youth, say in 1818—to the time of his death,—a friendship which was *stronger* than relation by blood,—a friendship which was entitled to the more sacred designation of LOVE, at least on my part. My heart bears witness to the intensity of my affection for him while living, and my veneration and profound respect for his memory since his death.

Indeed, I could not *write out* my full views of the character of Lamar in a manner that *others* could *appreciate*. On that subject I should incur the charge of enthusiasm, if not of outright devotion to the man. If I were to say, or to write, that all that my friend lacked to make him the *first man* in America was a high *official position*, you and our old friends and

contemporaries would laugh at me, and set me down either as a very poor judge of men, or as demented; and yet *this* would be my summing up of the elements composing the mind and character of Lucius Q. C. Lamar. If I were to add that, to a capacity towering above even the then recognised "great" of the land, my friend had a heart and affections moulded to almost angelic purity, and, as events proved, too large and bountiful to bear the clayey tenement which confined them, my credit for *sanity* would be wholly lost; and yet I would dare assert *this*, too.

Thus, you will see that I could not be trusted to contribute to the work of our friend Miller with *my pen*. But, as to the correspondence between Judge Lamar and myself, it may be in my power to render some service, and I will review my ancient files—which will be no slight labor—so soon as I can find the time; and if, upon a reperusal of the letters, I conclude to submit them to Major Miller, I will enclose them to you for his use, under such injunctions as may be necessary. I will remark, however, that in removing from Georgia to Alabama, in 1839, a box containing much of my private manuscripts, and large files of the letters of my correspondents, was lost or mislaid on the journey, and I have never been able to recover it. I am satisfied that several of the letters of Lamar were among the papers: still, I am very sure that I have a number of his letters yet in my old files.

It may be remarked here that neither Mr. Hines nor Mr. Holcombe ever furnished the author with any further materials for the biography of Judge Lamar. The leisure moment never arrived to accomplish what both no doubt sincerely desired in this respect. The author is grateful, however, for the small yet agreeable contributions they made to his stock. It is probable that Mr. Holcombe did not succeed in finding the letters which he flattered himself had escaped the accidental loss to which he referred. They would doubtless have afforded a better key and a more reliable transcript of character than if Judge Lamar had written for public inspection. In composing for the press, men are apt to draw more formally from the head, than spontaneously from the heart, to win public favor.

In answer to his request, the author has had the good fortune to receive from a valued correspondent* a sketch of Judge Lamar, which he takes pleasure in giving at length, as follows:—

This highly and justly distinguished jurist was a native of Warren county, but passed most of his youthful years in the county of Putnam. He was the oldest of four sons of John Lamar, a thrifty planter who resided on a valuable estate ten or twelve miles south of Eatonton long enough to see a large family reared and educated, and the most of them advantageously settled in his own native State of Georgia. Though not a rich man, Mr. John Lamar, by dint of industry and good management, found means to give his children the best education which the schools of

* Hon. Joel Crawford.

the country afforded. None of them had the benefit of a college course, nor were they (it is believed) acquainted with the ancient classics, or any other language but English. But, if the children of this worthy man did not bring into practical life any great amount of literary and scientific lore, they certainly brought what was infinitely more valuable,—mind, morals, and most of the virtues which elevate and adorn it. In the regimen of no other family were strict veracity, “temperance in all things,” probity and benevolence, more peremptorily and successfully inculcated.

LUCIUS was born July 15, 1797, and from boyhood was a lover of books,—reading with good effect almost every thing that came within his reach,—but had a decided partiality for poetry, and other works of imagination. In after-life he was distinguished for his attainment in *belles-lettres*, for the classic purity of his compositions, and for forensic eloquence.

In 1816 he commenced the study of law in the office of Joel Crawford, at Milledgeville, where he read with great assiduity, and, among other acquisitions, became an accurate *pleader*. Having spent twelve months or more in this office, and wishing to complete his professional education, he repaired to the celebrated law-school at Litchfield, in the State of Connecticut, in which Judges Reeve and Gould alternated in delivering a course of lectures. During a period of thirty years or more, the Litchfield school was almost the only institution of the kind, and by far the most famed, in the United States. It was sought by students from almost every part of the Union, and from no State, probably, in greater numbers than Georgia.

About the year 1818 or 1819, young Lamar was licensed “to plead and practise in the several courts of law and equity in this State,” opened an office at Milledgeville, and, not many months thereafter, married Miss Bird, the daughter of an eminent physician of that place. Though few young lawyers have brought to the bar higher qualifications, he lacked some, and for a few years his prospects were any thing but bright. While others, with not a tithe of his genius or learning, were seen to be reaping rich harvests of fees and crowded with clients, he remained poor and almost briefless. How and why did this happen? Courage, truth, and honor were among the most conspicuous elements of his character, and he seemed to have the esteem and confidence of every one. But he could not court clients or solicit patronage: his characteristic independence and legitimate self-esteem would not tolerate even the semblance of unworthy condescension. He doubtless wanted what is commonly called *address*: he had no turn for frivolous chat, story-telling, anecdotes, &c. In short, he lacked those qualifications on which humbler natures rely for conciliating popular favor.

But there was another peculiarity attached to this gifted young man which is very seldom seen in persons of his age and fervid temperament. It would seem that the tone of his nervous system was liable to accidental spells of depression, which not only impaired his capacity for social companionship, but, at times, the highest energies of his mind. At the bar, and elsewhere, when under the weight of this incubus, he has been known to betray a want of thought and of expertness in the transaction of business which, to those who knew him best, was astonishing. On one occasion, an important case of his being on trial in the county of Twiggs,—a case he had much at heart, and in which he had made great preparation,—when in the prescribed order of speaking it became his turn to address the special jury, he arose with perfect self-possession, and, having proceeded through an exordium of great appropriateness and beauty, suddenly came to a dead

pause. No one knew the cause until he, with a humility and confusion of face that betrayed the deep mortification under which he suffered, declared, in an under-tone, to his associate counsel, that he could not proceed, and that the whole advocacy of the cause must fall into the hands of the associate.

In the summer of 1821, his first preceptor in the law, having retired from the practice some four or five years before, resumed it, and Lamar became his partner. This copartnership, by its terms, was limited to three years; and before the expiration of that time Lamar had so many opportunities of exhibiting proofs of his great professional ability, that he never afterward wanted clients or fees.

Mr. Lamar, doubtless, had ambition,—a legitimate ambition,—to acquire by meritorious actions that fame and fortune which may at all times be justly awarded to useful and brilliant achievements; but he had an insuperable aversion to catching office as a mere fortuitous windfall, or getting it by surrendering himself to the arbitrary management of a political party. Under the influence of such generous self-denial, he more than once refused his name as a candidate when success was little less than certain. His conduct when Thomas W. Cobb—about the fall of 1828—became a candidate for the bench of the Ocmulgee circuit, will serve to exemplify some of the lofty traits which belonged to the character of Lamar.

Mr. Cobb was an experienced and, confessedly, an able lawyer,—had been for many years a respectable member of Congress, desired to continue in the public service, but, in the decline of life, preferred a station nearer home. That popularity, however, which carried him three terms to the House of Representatives, and afterward to the Senate of the United States, now forsook him. He was beaten on joint vote of the General Assembly by a large majority; but, for some cause best known to himself, his successful opponent,* within a few days, resigned the commission of judge, and the vacancy had again to be filled. Cobb's friends again presented his name, and Lamar was importuned to offer as the rival candidate. Had he consented, his election was morally certain; but he had a becoming respect for Mr. Cobb's seniority and past services, was no stranger to the unworthy motives of those who were most intent on a second defeat, nor to the plasticity of that illy-organized college of electors, the General Assembly. His refusal was peremptory, and Mr. Cobb was permitted to take the office he so much coveted.

Before the term for which Mr. Cobb had been elected expired, his death made a vacancy which Mr. Lamar could honorably consent to fill. He came, then, into office on such conditions as met his approbation, and continued, until the day of his own lamented death, to discharge its duties with signal ability, and with public applause which few in judicial stations have had the good fortune to receive.

The melancholy event of Judge Lamar's death (occasioned, as it was, by his own hand) filled the wide circle of his friends and acquaintances with lamentation and astonishment. He was yet a young man, with sufficient wealth for entire independence, unequalled popularity, a wife and children on whom he doted: no man, indeed, seemed to have more to attach him to life. To the inquiry everywhere made, "What could have caused the suicide?" no satisfactory answer was given. Some supposed it to be religious frenzy, originating in recent and deep impressions on that sub-

* Judge Shorter. See his memoir.

ject. One who knew him intimately has assigned that which was probably the true and only cause,—*insanity*, resulting from accidental derangement of cerebral organism. The disease of which the judge died may, therefore, be assumed as a natural one, and as explicable, on pathological principles, as apoplexy or any other malady of the brain.

Whatever may have been predicted of the eventful career of Judge Lamar had he lived longer and been placed in Congress, or on some other theatre favorable to the display of his splendid oratory and ardent patriotism, it is admitted that, both at the bar and on the bench, he attained the first rank. He presided with great dignity, and was most effective in the despatch of business. No one who knew the man ever ventured on an act of rudeness or disrespect to his court; yet every person whose deportment was worthy of it had unfailing assurances of his kindness. His lectures of instruction to the grand juries, at the opening of a term, were delivered in admirable style; and his charges to special and petit juries, engaged in the trial of difficult and much-litigated cases, might well serve as models to any bench.

His manners in public and private life were wholly free from useless formality, but frank, bland, and refined. He left a young family of sons and daughters, who, under the judicious training of an intelligent, kind, and pious mother, give hopeful promise of future usefulness and respectability.

After this testimony, from one so competent, establishing the high rank of Judge Lamar in the profession and also as a citizen, the attempt to improve the picture would be vain; no room is left for art or friendship to throw further light on a character so nobly moulded. He was truly a man of great moral elevation, and universally beloved. His sensibilities were very acute, and his emulation was entirely unselfish. Aiming to extend the conquests of his profound intellect to the verge of human possibility, he overtasked his nervous system, resulting in that deplorable act which deprived his country and his friends of a pattern of excellence. His fame secure, his virtues without a blemish, the memory of Judge Lamar will ever remain dear to the people of Georgia and to all who can rightly appreciate an exalted nature.

When quite young in his profession, Mr. Lamar was chosen by the Legislature to compile the laws of Georgia from 1810 to 1820. He arranged the several acts under their appropriate divisions, and made such references and explanations, in notes, as were necessary to show what had been repealed or modified. The result of his labors was reported to Gov. Clark in 1821, and by him submitted to the inspection of Simon Whitaker, James Camak, William Y. Hansell, and James Bozeman, Esquires, who, having carefully examined it, pronounced in its favor. It was then published in quarto form of thirteen hundred pages, and may be found occasionally in the clerks' and lawyers' offices. Its enormous bulk,

owing to the *avarice* or bad taste of the printer, renders it a very inconvenient book to handle. It is vol. iii. of Georgia Statutes, so called by Mr. Prince in compiling his Digest,—Marbury and Crawford's being vol. i., and Clayton's vol. ii., to which may be added Dawson's, from 1820 to 1830, vol. iv., the last of the quartos. Prince, Hotchkiss, and Cobb have published Digests, retaining and classifying the statutes, or such portions as are of general operation. Mr. Lamar also revised Clayton's "Georgia Justice" about the year 1819,—now rarely found.

At the session of the Legislature in 1830, the vacancy in the judgeship of the Ocmulgee circuit was filled by the election of Mr. Lamar, who, up to that time, had never worn what he had long richly deserved,—the judicial robes. There were between thirty and forty ballotings before a choice was made,—Judge A. G. Saffold, who was the Executive appointee, and Mr. Lamar, both Troup men, and the late James Smith, Esquire, of the Clark party, as distinctions were then held, all competing for the office. A singular experiment was made, no doubt in a joke, but of the most glaring impropriety, to terminate the wearisome contest, of which the author ventures to give the particulars.

Under date of November 4, 1830, the Journal of the House (p. 124) states :—

Both branches of the General Assembly proceeded by joint ballot to the election of a judge, and the ballots being received and examined, after many unsuccessful ballotings by reason of neither candidate having a majority of the whole number of votes, on motion, the President and members of the Senate withdrew, and the House adjourned until 8 o'clock this evening.

At the night session (Journal, p. 126) it is recorded :—

The clerk was again directed to inform the Senate that the House of Representatives were ready to receive them for the purpose of completing said elections; which duty being performed, the President and members of Senate again attended, and, being convened in the Representative Chamber, both branches of the General Assembly proceeded by joint ballot to the said elections; and, the ballots being severally received and examined, it appeared that Lucius Q. C. Lamar, Esq., was duly elected Judge of the Superior Courts of the Ocmulgee circuit, to fill the vacancy of the Hon. Thomas W. Cobb, deceased; and that Col. William Ezard was duly elected Brigadier-General of the 2d Brigade of the 7th Division, to fill the vacancy of Gen. Harrison Jones, removed.

In one of the ballotings—perhaps the thirty-fifth—several votes wrapped together were discovered by the examiners and tellers, who disclosed the same to the two Houses in convention. Of course,

neither of the irregular ballots was counted; but the deed excited general indignation. A joint committee was raised to inquire and report the facts. The test they adopted (though not appearing on the Journal) was in substance that every member should declare upon oath before the committee whether he knew who deposited more than one vote during the same ballot,—the assertion not to criminate himself. All passed through the ordeal except Mr. Hardee, (now of Savannah,) who refused to take the oath, he having acquired a knowledge of the transgression in such way as to forbid the exposure. This led to a confession on 6th December, as appears on the Journal, p. 271:—

The Speaker laid before the House a communication from William P. Hopkins, and the same being read, on motion of Mr. Bates, it was ordered to be entered on the Journals of the House, and is as follows, to wit:—

TO THE HON. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR:—The joint committee, to whom was assigned the duty of ascertaining if possible the person who gave four votes at the late election of Judge of the Ocmulgee circuit, having reported, and their report having placed Noble A. Hardee, Esq., one of the Representatives of Camden county, in an awkward position in relation to this subject, I feel compelled for his special relief, as well as from a consideration of my duty to each member of the House, voluntarily to avow the fact that I did, at said election, on *one* ballot give in more than one vote; but it was only on one ballot that I gave in more tickets than one. This disclosure would have been instantly made but for the high excitement which the circumstance seemed to occasion. At a later period, when this matter was under investigation before the committee, I should have communicated the fact had I not been convinced that the House was disposed to treat seriously a circumstance which was at the time intended solely for amusement and without any intention corruptly to change the result of the election, and not believing myself bound to make any statement calculated to implicate myself. It is always understood that evidence is given with this reservation.

The House, I hope, will believe me candid in my statement of having no improper motive in this affair. Two of the candidates were of the same political party with myself. I had no acquaintance with either of them before the present session, and my predilections for either were not sufficiently strong to prompt me to an act which, if done with a corrupt intention, would be highly reprehensible. I submit this statement, through you, to the House, and hope to stand acquitted in public estimation, as I know I am in my own conscience, of any evil design in the matter.

Respectfully,
WM. P. HOPKINS.

Next day the Journal (p. 282) contains this entry:—

Mr. Bailey laid on the table a preamble and resolution to expel and exclude from the House of Representatives William P. Hopkins, a mem-

ber from the county of McIntosh; and, the same being read, he moved to suspend the order of the House, for the purpose of taking the same into consideration; which motion was refused,—Yeas, 22; Nays, 85.

And on the succeeding day, December 8, the Journal (p. 288) gives the conclusion as follows:—

On motion of Mr. Hardee, the House took up the resolution offered yesterday concerning the conduct of William P. Hopkins in the late election for Judge of the Ocmulgee circuit, and to expel and exclude him from his seat as a member of the House of Representatives; and, the same having been read, Mr. Murray offered the following as a substitute, to wit:—

Whereas, William P. Hopkins, Esq., a Representative from the county of McIntosh, did, at the late election of a judge of the Ocmulgee circuit, place in the ballot-box more than one ballot at one of the times of balloting, when he should have voted but one ballot only;

And whereas, the said William P. Hopkins has, by letter addressed to the Honorable the Speaker and members of the House of Representatives, frankly and avowedly acknowledged the fact, and submitted his reason for not having done so at an earlier period, and, moreover, has assigned the reason that he did not do it from any corrupt or improper motive, but having voluntarily and of his own accord made such disclosure, and the same being entered of record in this House, he thereby indulged the hope that henceforth he might stand acquitted of any improper motive in the opinion of a liberal and enlightened community;

And whereas, it is not the wish or desire of this House to destroy forever the prospects and respectability of a young man just entering upon the scene of busy life for an act of indiscretion resulting in injury to no person save himself,—

Be it therefore resolved by the House of Representatives of the State of Georgia, That, whilst they deeply regret the occurrence, and view with disapprobation any attempt to use corruptly and improperly the elective franchise, they are, nevertheless, disposed to view the act of the said William P. Hopkins more as an act of youthful indiscretion than otherwise, unaccompanied by any corrupt motive, which entitle him to legislative sympathy; and that all liabilities of either censure, fine, reprimand, or expulsion, consequent to the commission of said act, be removed, and that the said William P. Hopkins be permitted, as heretofore, to enjoy all the privileges due to him as one of the Representatives of the people of this State.

The substitute of Mr. Murray was received and adopted,—Yeas, 66; Nays, 53.

On the Journal (p. 294) for Thursday, December 9, 1830, this final entry appears:—

On motion of Mr. Bailey to reconsider so much of the Journal of yesterday as relates to the agreement of the House to the substitute to the resolution respecting the conduct of William P. Hopkins, the motion to reconsider was rejected,—Yeas, 49; Nays, 75.

Thus, after a warm contest, in which great feeling was indulged

on both sides, Mr. Hopkins was justly relieved from his unpleasant situation. Mr. Murray, of Lincoln, had formerly been Speaker of the House of Representatives, and was highly respected by all parties, which qualified him for the office of mercy he undertook, and especially as he was adverse to Mr. Hopkins in politics. His appeal in behalf of the young, playful member was quite touching. It was generally believed that there was no corrupt design. As a proof that his conduct, though admitted by all to be very indiscreet, was not intentionally dishonorable, Mr. Hopkins soon afterward married the youngest daughter of Major-General John Floyd, and was again elected to the House. His accomplished wife died in a few months after marriage, and he did not long survive her.

This record concerning the illegal votes is inserted here as a portion of history, and also as a basis for reflection on the destiny of the two men. Mr. Hopkins had all the advantages which great wealth, refined society, and a liberal education could afford to establish a name in the world. Political honors were heaped upon him at an early age. He was not deficient in abilities to work his way upward. His disposition was gentle and chivalrous; but he had been accustomed to exercise his own moods, as youthful impulse or merriment might prompt, and he thus rendered himself unfortunately conspicuous by the *harmless prank* (as he considered it) which the House made the subject of grave investigation. It is said that the buoyancy of his spirits forsook him in consequence of this proceeding, though honorably acquitted; and then, his sad domestic bereavement following, his melancholy increased until death terminated his sorrows.

In contrast, Judge Lamar had no such adventitious aids to rely upon, not even the *prestige* of family; for, although the name had ever been exemplary, it was indebted to him for its first enthronement. His active genius, lofty virtues, and profound erudition would have given *éclat* to any name. There is no instance in England or America where a judge so rapidly gained public favor. In less than four years from his accession to the bench, he was its brightest luminary. He could not have been displaced; there was no desire felt by his political opponents to give his office to another; and it was his singular merit, his crowning glory, that both Union and State-Rights men would equally have renewed his commission. And, to complete his blessings, he was happy in his domestic circle. Wife and children, relatives and friends and everybody, loved him, and he loved all. Yet, amid all this innocence, this cause for satis-

faction, there was a secret canker in his mind: he was unhappy. His angelic nature shrunk from the conflicts of his own imagination; and, in his thirty-seventh year, he sought repose in the grave.

The author was anxious to obtain some production from the pen of Judge Lamar that would do him justice in showing the poetic beauty and harmonious structure of his style which were so evident in his speeches at the bar. For this purpose he applied to Major Iverson L. Harris, from whose reply the following is an extract:—

I have no remembrance of any essay, at this moment, from the pen of Judge Lamar, though, by tracing the files of the *Georgia Journal* as far back as 1824, I doubtless could find some,—political articles, I mean. Judge Lamar's education was received in common schools and academies. He was the graduate of no college. Much of his time, until he read law, was behind the counter as a clerk. Yet no man had more literary taste. Nothing delighted him more than for his brethren of the bar to mingle literary anecdote or classical allusion in their arguments. He was a great admirer of Hugh S. Legare, of South Carolina, as presenting the finest model of the profound lawyer and accomplished scholar; and such, since Legare's death, was the judgment of Mr. Justice Story.

As a specimen of Judge Lamar's style and reasoning on legal topics, I refer you to two cases in Dudley's Reports,—*Brewster vs. Hardeman*, and *Kendrick vs. The Central Bank*,—the latter sustaining *notes*, when the statute required *bonds*. They are both fine specimens.

I regret that I am unable to give you the outline of a remarkable case from Jasper, brought before the Convention of Judges. I think it arose under the statute in reference to charitable uses. The case was well argued by the late Charles P. Gordon and Thomas F. Foster, and others, was thoroughly discussed and authorities examined by the convention, Judge Lamar leading the convention to adopt his reasoning. An opinion *unanimously* was rendered.

During the interval between one convention and another, Judge Lamar was engaged in my office looking through my library, when he met with a case that gave him a new view. He pursued the examination closely for several weeks, reading the authorities very carefully. When the next convention assembled he stated what had occurred,—how his opinions had undergone an entire change. The authorities were reviewed, criticized, and applied by the convention, and it *unanimously* reversed its former decision,—Judge Lamar leading both times the argument and writing out the opinion of the judges. This is very remarkable, and furnishes high proof of his intellectual powers and honesty, more especially when it is remembered that William H. Crawford, Judge Law, Judge Dougherty, and, I believe, Judge Warner, were members of the convention. There is no report of this case in Dudley. L. Q. C. Lamar, Jr.,* now of Mississippi, has a manuscript volume containing both opinions; but it is not accessible to me now. I give you my recollection of the matter.

* Son of Judge Lamar, who married a daughter of the Hon. A. B. Longstreet.

Members of the legal profession have an opportunity to refer to Dudley's Reports for the cases at length; but others not possessing law-books may see from the extracts here given the compact reasoning and logical conclusions of Judge Lamar.

In the case of *Kendrick vs. The Central Bank*, the Commissioners of the Macon Bridge (then State property) were authorized by act of 1824 to rent the bridge annually to the highest bidder, taking *bond* and security for the faithful payment of the amount to the State. Harvey Kendrick became the highest bidder, "and the commissioners took his promissory *note* with security for the amount of the rent. By virtue of the act of 1828, incorporating the Central Bank, all debts due the State were vested in said bank, and, under the authority of said act, the note above mentioned was transferred to said bank. An action was instituted upon the note by the bank, and the defendants pleaded that the note was void, not having been taken in conformity with the statute, which requires a bond." The plea was overruled by the court, and a verdict rendered for the plaintiffs.

Upon a rule *nisi* for a new trial, the question came before the Convention of Judges, whether the contract was void in not pursuing the statute literally. The opinion written out by Judge Lamar, which was concurred in by the other judges of the convention, occupies five printed pages, sustaining the judgment below. The following extract must suffice:—

That there is a well-founded distinction between an imperative requisition of a statute and a clause merely directory to an officer, is illustrated even in the case of a bail-bond. Thus, a sheriff may take a bond with *one security* only, notwithstanding the statute mentions *securities* in the plural number. 2 Saunders, 61 c.; 1 Archb. Prac. 75. Again, the st. 12 Geo. I. c. 29, enacts that the sheriff shall take bail for the sum endorsed on the writ and no more; yet, if the bond be taken for more, it will not avoid it if no intention to oppress the defendant appear. 2 Wils. 60; 1 Burr, 331; 1 Archb. Prac. 74. The same distinction is supported in the case of *Speake et al. vs. U. States*, 9 Cranch, 28, in which the court held "that a bond taken by virtue of the first section of the embargo-law of January, 1808, was not void, although taken *after* the vessel had sailed, by consent of parties: the statute as to the time of taking the bond was merely directory to the collector." On the subject of statutory bonds generally, I am aware that there are *dicta*, and some decisions, which go to the extent that the insertion of conditions not authorized by law renders such bonds void *in toto*. 3 Wash. C. C. Rep. 10. This point, however, does not occur in the present case. If it did, it might be well worthy of consideration whether it would not better comport with reason and justice that the unauthorized conditions only should be void. 1 Gal. 86. But, without engaging in that inquiry now, I will remark that the present case does not fall within the reason of those authorities, in

which such bonds are held to be void, as no onerous or unauthorized conditions have been exacted from the defendants. The obligation incurred by them under their contract is only coextensive with that which the Legislature intended to impose. The departure from the statute consists in the *form*, not in the *substance*, of the contract. Where there has been a substantial compliance with the law, the want of rigid conformity with the mere letter of a statute requiring a bond to be taken is not a fatal objection to the bond. In the case of the *United States vs. Morgan et al.* 3 Wash. C. C. Rep 10, the court held that, although the second section of the embargo-law of December, 1807, directs the bond which is therein required to be given to the collector, yet it is valid if taken to the *United States*. (See also *U. States vs. Smith et al.*, 2 Hall's American Law Journal, 458.)

In the case of *Brewster vs. Hardeman* and others, the question arose on the plea of the statute of limitations on an open account, whether, after the dissolution of the partnership, the admission of one partner can bind the other partners, so as to prevent the statute from obtaining in their favor. The case came before the convention in June, 1831, and was referred to Judge Lamar for an opinion, which was adopted by the convention in June, 1832. It occupies more than fourteen printed pages, elaborating the points and sifting the authorities with wonderful ability. In a letter to Mr. Dudley, in 1835, the Hon. Joseph Henry Lumpkin says :—

The case of *Brewster vs. Hardeman* and others, in this county, and of *Wakeman and wife vs. Roache*, in Chatham Superior Court, may be placed on a level with the best productions of the American or English bench.

The author has only room for the summing up of all the authorities by Judge Lamar in *Brewster vs. Hardeman* :—

The result, then, of this inquiry may be summed up in the following propositions :—

1. The authority of one partner to make contracts which bind the whole arises from the confidential nature of the partnership-relation.
2. When that relation ceases, the authority which grows out of it, and is dependent upon it, also terminates, except so far as a continuing authority, touching the unsettled business of the firm, is expressly delegated or necessarily implied for the *benefit* of all the parties.
3. A debt barred by the statute of limitations can be revived only by a *new* promise, expressed or implied, and for which the old debt forms the consideration.
4. After the dissolution of a partnership, a power in each partner thus to revive against all a debt, from the obligation of which they are legally absolved, does not fall within the exception mentioned in the second proposition, because such a power in each could in no event become beneficial to all, and therefore cannot be implied.
5. From the united force of these propositions, it necessarily follows

that the acknowledgment of a debt, or a promise to pay it, made by one partner after the dissolution of the firm and after the debt has been barred by the statute, will not revive the debt against the former partners.

As an act of justice to the chairman of the committee and to the distinguished guest, the author makes room for the following correspondence:—

MILLEDGEVILLE, November 8, 1881.

TO HIS EXCELLENCY GEORGE R. GILMER.

SIR:—At a meeting of your political friends, the undersigned were appointed to invite you to partake of a public dinner, on such day as will suit your convenience, as an evidence of their cordial regard and of the high estimation in which they hold the purity of your character and your public services as Chief-Magistrate of the State.

Permit us, therefore, to solicit your acceptance of the invitation, and to add for ourselves, individually, the expression of the high consideration with which we are, sir, your friends.

LUCIUS Q. C. LAMAR,
JAMES CAMAK,
WILLIAM GREEN,
WILLIAM TERRELL,
ELIAS BEALL,
THOMAS STOCKS,
JAMES BOYKIN,

HENRY BRANHAM,
S. HARLOW,
WM. C. DANIELL,
ASBURY HULL,
ROBERT AUG. BEALL,
JOHN H. HOWARD,
GEORGE H. YOUNG,

JAMES S. CALHOUN.

MILLEDGEVILLE, November 8, 1881.

GENTLEMEN:—I have received your letter of invitation to partake of a public dinner, which you have done me the honor of saying is intended as an evidence of your personal regard and the estimation in which you hold my public services as the Chief-Magistrate of the State.

My friends know my simple habits, and opposition to being made the subject of honorary distinction on account of any official station which I have held. I have therefore, in accepting your invitation, been influenced solely by the desire of acting in accordance with the wishes of my personal friends, and of those with whom I have long been politically united in defence of the rights of Georgia and in endeavoring to preserve the constitutional liberty of our common country.

The situation of my private affairs renders it desirable that I should return to my own residence as soon as possible. I will therefore name Thursday next as the day which will best suit my convenience to attend a public dinner.

Accept, gentlemen, for yourselves, and those you represent, the assurance of my high respect and regard.

GEORGE R. GILMER.

Hon. LUCIUS Q. C. LAMAR, and others composing the Committee of Invitation.

Among the toasts offered at the dinner, and received with marked approbation, were the following:—

By G. M. DUDLEY, Esq. The Honorable Lucius Q. C. Lamar. A junior in years, but a sage in jurisprudence. The wisdom, purity, and impartiality of his administration, hitherto, furnish such pledges of future usefulness and eminence as all parties in the Legislature are bound to regard in the approaching election of judges.

By JUDGE LAMAR. When the mind is engaged in recurring to able and faithful public servants, the name of the Hon. John Forsyth presents itself in distinguished prominence.

Having the evidence on which, in part, his judicial reputation was founded, the reader has nothing more to learn concerning the gifted and virtuous LAMAR. The author was personally acquainted with him, has often heard him in court, and has spoken of him on that basis. It is impossible to exaggerate his claims to the respect of mankind, or to hand to posterity an over-colored picture of his excellence. Such was the anxiety of the author to procure a vivid sketch of his character in different phases, official and domestic, cheerful and melancholy, that he applied to Gen. Mirabeau B. Lamar, formerly President of the Republic of Texas, and to Col. A. H. Chappell, his brother-in-law, for incidents confirming still more abundantly the award of public opinion; but these gentlemen, though treating the request affably, declined the task,—doubtless from motives of delicacy. A few reflections, or a brief narrative, from men of such acknowledged abilities as Gen. Lamar and Col. Chappell, unfolding the depths of character and the sources of action applicable to their deceased relative, would have added much to the interest of this memoir.

The proceedings had in Baldwin Superior Court before his Honor John G. Polhill on the occasion of the death of Judge Lamar are here given:—

TRIBUTE OF RESPECT.

BALDWIN SUPERIOR COURT, July Term, 1884, Monday morning, July 14.

The lamented death of Judge LAMAR being announced, on motion of Edward Y. Hill, Esq., it is ordered that Edward Y. Hill, Samuel Rockwell, J. H. Howard, Wm. H. Torrance, Thomas Haynes, C. P. Gordon, John A. Cuthbert, R. K. Hines, I. L. Harris, and James Smith, Esquires, be a committee to recommend suitable testimonials of respect for the memory of the deceased, and that the committee be requested to report to-morrow morning at the opening of the court.

The court adjourned, without doing any business, until to-morrow.

Col. Rockwell, from the committee appointed by the foregoing resolution, submitted the following, which was adopted:—

On ordinary occasions, when we are called to mourn the loss of those dear to us in the private circles of life, our grief for the bereavement should be indulged in silence; but, when the social ties formed by pro-

fessional brotherhood, cemented by an uninterrupted intimacy for a series of years, and strengthened by an unbroken chain of friendship, are suddenly rent asunder by the hand of death,—when the virtuous, the gifted, the exalted of our land are stricken down under the most afflicting circumstances,—it becomes our melancholy privilege to give vent to our feelings by a public expression of sorrow. The custom which has consecrated this privilege has its origin in the best feelings and purest affections of the human heart. Such is the sorrow awakened by the heart-rending catastrophe which has deprived us of the useful labors of the Hon. LUCIUS Q. C. LAMAR and consigned him to an early and untimely grave.

The qualities of a judge are best appreciated by those who have constantly witnessed their exercise; and the virtues of a man can be truly estimated by those only who have had a long and intimate intercourse with him. Justly, then, can we appreciate the judicial qualities, and truly can we estimate the virtues, of our lamented friend, who have marked his short but brilliant career,—who have known the powers of his mind and the excellence of his heart.

At the bar he was an ingenious and able advocate and excellent jurist. Possessing a mind far above the ordinary grade, distinguished alike for acuteness and discrimination, it could grapple with the giant difficulties of the science and master its abstruse theories. On the bench he exhibited a soundness of judgment and depth of learning beyond his years. His candor, ingenuousness, and modesty were no less conspicuous than his amenity and kindness to all in any way connected with the administration of justice. His expositions of the law, his charges and instructions to the juries, were uniformly marked by precision, beauty, and eloquence, imparting interest to the subject and instruction to the hearer. Devoting himself to the arduous duties of his station, he seldom erred in judgment; but, ever anxious that his judicial opinions should be correct, he sought occasion for their revision, and, with the noble impulse of an upright mind, rejoiced in the opportunity for their revision. Always guided by humanity, he truly administered justice in mercy. To the youthful aspirant for professional distinction he was indeed a friend, exciting his ardor, aiding his exertions, commending his efforts, alluring him onward, and extending a fostering hand for his support when difficulties surrounded him.

In all the relations of private life he was blameless, ever kind, ardent, and affectionate. Of unblemished integrity and pure morals, no whisper injurious to either ever rested on his name. He was beloved for his amiable disposition, his bland deportment, his noble frankness, and his generous sentiments. But he is gone, leaving behind him a numerous circle of friends to deplore his sudden and premature departure.

The endearing recollection of his social virtues, of his personal kindness, of his unsullied purity, of his singleness of heart, and of the intellectual brilliance that surrounded his character as an upright, enlightened, and humane judge, will soften the poignancy of our grief for his loss, and, while they remind us of the extent of our deprivation, will embalm his virtues in our hearts. As a testimony of our sorrow for his death and of our regard for his memory,—

Be it Resolved, That we will wear crape on the hat during the continuance of the circuit, and that the absent members of the Ocmulgee bar, and the several officers of court in the several counties composing this circuit, be respectfully requested to conform to this resolution.

Resolved, That his Honor Judge POLHILL be respectfully requested to transmit a copy of these proceedings to the bereaved widow of the deceased, assuring her of our profound respect for the afflicted relict of our departed friend, and of our sincere condolence on the melancholy event which has deprived her of a tender and affectionate husband, her children of a kind and indulgent father, this circuit of an enlightened judge, and the State of one of her noblest sons.

Resolved, That these proceedings be transcribed by the clerk upon the minutes of the court, as a memorial of departed worth.

A true extract from the minutes of Baldwin Superior Court, July 15, 1834.

RANSOM H. SMITH,
Clerk.

A handsome monument, in the form of an obelisk, twelve or fifteen feet high, has been erected by the members of the bar over the remains of Judge Lamar in the cemetery near Milledgeville, on which is the following inscription:—

Sacred to the memory of LUCIUS Q. C. LAMAR, late Judge of the Superior Court of the Ocmulgee circuit, who, during a brief period of four years, discharged the duties of that high office with probity, firmness, efficiency, and unquestionable reputation. The devoted love of his family, the ardent attachment of personal friends, the admiration of the bar, and the universal approbation of his enlightened administration of justice, attest the goodness and greatness of one arrested by death too early in the bright career in which he had been placed by his native State.

Born July 15, 1797.
Died July 4, 1834.

XXII.

JACOB MARTIN.

It is profitable to examine character,—its singular manifestations. What would be the ruin of one is but the perfecting of another individual by drawing out his energies. An easy condition, rich parents, and all the gratifications so much coveted, are looked upon as blessings, while the reverse is deemed a misfortune for which there is no adequate compensation. Happily there is no patrician rank to keep down humble merit in this country. Had there been a monopoly of greatness by birth or fortune, no such

name as that now presented would have appeared on the roll of distinguished lawyers in Georgia.

JACOB MARTIN was born in Jones county, Georgia, on the 30th day of June, 1810. His parents were unable to give him an education, and he grew up like thousands of poor young men,—neglected in their minds, and only conquering at last as circumstances permit. The story of his life can soon be told. It was a hard struggle and a brilliant triumph. As such, it should impress every youth with heroic determinations, knowing that an earnest will and upward aims will succeed at last. His efforts to overcome the difficulties of fortune were akin to those of the noble Arctic explorer* who, at the call of humanity, and inspired by a genius and courage equal to any this world has produced in the peaceful walks of life, opened new fields of thought, and dignified his race by an example which will remain bright and glorious through the annals of time. Nature was taxed beyond her capacity of endurance in both, and they fell in early manhood, but with trophies of intellect to mark the path they trod. The obscure frontier-boy was actuated by the same principle which impelled the learned Philadelphia youth to that course of action which for moral grandeur is unsurpassed in the history of man. The parallel is instituted merely for its moral lesson, to give tone and vigor to youthful minds, and to banish despair from all. The fame of one will never perish, nor will the memory of Sir John Franklin. The character of JACOB MARTIN has yet to be unfolded, unpretending as it is, for public judgment.

In reply to certain inquiries addressed by the author to a gentleman† well known and appreciated in Georgia, the following communication has been received relative to the subject of this memoir:—

His father removed from Jones to Pike county, of which he was one of the earliest settlers. The country was then a wilderness, without schools or churches, and without people to contribute to them. Indeed, no schools existed in that quarter, capable of teaching even a good English education, during his minority, and his father, having the care of a numerous family on his hands, and being a farmer of very limited means, was unable to send him to a distant school.

At the age of seventeen he left the paternal roof to seek his fortune in the wide world, without money, and against the will of his father. A company of young men having determined to go to the then young and rising city of Columbus to seek employment, he went with them, and remained there several months, engaged at such work as opportunity

* The late Dr. Kane.

† Hon. James H. Stark.

threw in his way. He afterward returned and assisted in the farm-labors of his old neighborhood, industriously serving those who employed him. His leisure hours were devoted to the improvement of his mind.

About the time of the intrusion upon the Georgia gold-mines, he and several other young men visited the upper part of the State for the purpose of enriching themselves out of the underground treasury. After having been several weeks engaged digging in various places without much success, and being exposed to arrest by the United States soldiers who were then marching from place to place through the country to pick up such persons as might be found trespassing upon the mines, the balance of the company became alarmed at the prospect of danger, and determined on leaving. He, however, declined to accompany them; and they left him to his fate.

He was then eighteen or nineteen years of age, entirely alone, far from the habitation of any white person, his only neighbors being the Indians who were digging on the same branch: still, having found a rich place, he remained. At night he slept on the ground, without even the frail covering of a tent-cloth to protect him from the weather, exposed to the hostility of the Indians, who frequently quarrelled with him for the purpose of alarming him, that they might succeed to his digging-ground. On two occasions they actually attacked him and endeavored to take his life. At night, while he slept, they would steal his ham of meat from under his head. Notwithstanding he was often almost at the point of starvation on account of the roguery of the Indians, he maintained his ground until he was finally taken by the United States soldiers. After a fatiguing march from early in the morning till late at night, and not receiving the smallest allowance in the way of food, he made his escape and returned home.

He was then for several years variously employed, and finally embarked in school-teaching, which he continued for about a year under liberal patronage and to the entire satisfaction of parents and pupils. In the mean time, his leisure moments were employed in reading Blackstone's Commentaries on the Laws of England, preparatory to a regular course of law-reading. His determination to read law was not well received by his father and other friends, who made considerable efforts to dissuade him from so unpropitious an undertaking. But it was all useless, as they soon discovered; and they then wisely gave him their well wishes. It is true his opportunities were unfavorable to the rapid acquisition of a thorough knowledge of law; but his zeal and indomitable energy in a great measure made up the deficiency. He went into the office of Col. James H. Stark, who was then residing at Jackson, in Butts county, and, after reviewing his legal studies, was admitted to the bar. He soon afterward located in the town of Zebulon, Pike county, where he continued to reside until his death.

He began his professional career without money, and, comparatively, without friends, and was compelled to deny himself many gratifications enjoyed by young men who possess means. His privations, heart-achings, dependings, and distrustings of his final success, perhaps none but himself ever knew. Up to this time his life had been one of hardship and toil. He now began the practice without means, without books, and without friends who were able to help him. He was indefatigable and successful from the beginning. Energy was all he could boast, and this was enough. His subsequent success, and his rapid rise as a safe, honest, and efficient lawyer, are mainly attributable to his untiring energy. True, his capaci-

ties were good, even excellent; but such energy is never without capacity, either from the fact that it will not grow in any other kind of soil, or that such energy will always bring forth such powers. Few men have sufficient energy to put their capacities to the test; and most men are much greater in capability than in action.

He was remarkable from his early boyhood for great firmness and determination in accomplishing whatever he undertook, and equally noted for fearlessness of character. He generally staked every thing—even his life, if necessary—to carry out his objects, however trifling they might appear. A little incident will show this trait of character, and also how he was foiled on the occasion.

His father owned a fine young horse, of an iron-gray color, that was so easily frightened and so high-spirited that he was soon considered a very dangerous animal, so that no one but Jacob was willing to undertake to manage him. The wildness of the horse suited Jacob's nature. He therefore purchased and began ploughing him. The horse *would* run away, but still he ploughed him: even though he ran away four or five times the same day, tearing every thing to pieces as he went, he brought him back as often to the plough and geared him in for another trial.

The horse being as troublesome to ride as to plough, one day while on his back, and having an umbrella in his hand, Jacob laid the umbrella between the horse's ears; and instantly the horse bounded with the fleetness of the wind through the woods, until he, though an accomplished rider, was thrown violently to the ground and much injured. He finally succeeded in catching the horse, when he mounted him again, and, against the remonstrances of his father, tried the same experiment, which resulted in the same way. And thus he continued until he was a third time thrown violently in his fruitless efforts to conquer the animal. But the injuries occasioned by his falls were so severe that he was compelled to desist. This horse he called *Quicksilver*,—an appropriate name for a horse of his color and qualities, Quicksilver being rather too *quick* for him on several occasions.

In the year 1835, Mr. Martin intermarried with Miss Martha C. Howe, daughter of Robert Howe, of Crawford county,—a lady who has ever been remarkable for amiability of character and her great devotion to her husband while in life, and who has been a constant mourner since his death.

Mr. Martin's first case was in Butts,—trover for a pair of oxen. The oxen had strayed from the owner, and Martin's clients (the defendants) had levied an insolvent execution on the oxen, had them sold by a constable, and became the purchasers. Of course, the transaction was indefensible; but Martin did all that human ingenuity could devise to soften the color of an illegal and fraudulent affair and to mitigate the damages. He lost his case, but gave such proofs of professional adroitness in the management of a desperate claim, that thenceforth he became a decided favorite with the people of Butts, and ever afterward enjoyed a good practice in that county.

A few weeks afterward he packed up his goods, consisting of a scanty supply of plain clothing and a few books borrowed from his friend with whom he had studied, and took up his residence in Zebulon. Here he soon convinced his landlord that his board-bill would not remain long in arrear. When not actively engaged in the duties of his profession, he toiled over the few books he had. He read *multum*, if not *multa*. Blackstone, Chitty, Starkie, and Maddox were read and reperused until he was

absolutely master of every thing therein written. It may be safely affirmed that he could answer every question in Blackstone's Commentaries and the Notes, every question in Chitty's Pleadings, Starkie's Evidences, and Maddox's Chancery. Still, he found time to improve his education, which was very imperfect, and to extend his general information, so that he soon wrote and spoke the English language with purity and fluency, without any attempt at ornament. He soon became a gentleman of extensive and varied information. He was emphatically an independent thinker, swearing to the *ipse dixit* of no man, but in his law-researches rejecting as untrue all the *dicta* of the judges not founded in authority, in sound reason and common sense. In his investigations he sought the truth, and usually found it.

In court he was always ready. Every paper was in its proper place; his books were there; his clients and witnesses were more punctual in their attendance than others. He knew in advance nearly what the witnesses would swear; his pleadings were right, and his legal positions noted on his brief, or ready in his mind to be insisted on at once. His style of argument was pungent, forcible, and logical, without any attempt at wit or what is called rhetoric or eloquence. His object was to convince the judgment of the court and jury, and when he was done he stopped usually without effort at peroration.

In pecuniary matters he was scrupulous and systematic, never detaining his client's money a moment after he had the opportunity of paying it over, and invariably taking receipts.

He never was a candidate for office. In 1836, he was elected a delegate to the convention to amend the State Constitution. In 1845, he was persuaded to accept a nomination for the Senate from the counties of Pike and Monroe. Party feeling ran high in the district. His opponent was a gentleman of intelligence and great worth and respectability, as well as a decided favorite among the people. Martin took the stump and canvassed the district, bringing to the task a thorough knowledge of the principles and issues which divided the parties, as well as a knowledge of the common people, their habits of thinking and action. He found the district flooded with Pitt's pamphlets against "lawyer-legislation," and here and there the people had been led away by the reasonings of the author. He found his profession as a lawyer strongly urged against his election. His opponent was a planter and farmer. It so happened that year that certain fields of his corn and cotton on the road were overrun with weeds and grass. Martin saw the condition of things as he went to the district-court ground, where he was to address the people. After discoursing as usual on the political topics of the day, he came to a conclusion as follows:—

"But, fellow citizens, new issues have been sprung upon us in this campaign. I am arraigned for being a lawyer, and on that account it is urged that I am not to be trusted as your Senator. For the last twenty years the counties of Monroe and Pike have been more or less represented by lawyers, with little or no objection on that account. Your last Senator was a lawyer. Now that my friends have placed me in nomination, sudden light has flashed over the minds of the people. The district has been flooded with Pitt's pamphlets, and I am to be the first victim sacrificed on the altar of popular prejudice. True it is, I am a lawyer, and my clients usually consider me faithful to their interests when committed to my charge. The legal profession, to which I belong, needs no extended

vindication at my hands. I shall meet this issue at once in another way. I was raised in the new ground, in the cornfield and in the cotton-patch. I am still a farmer. My opponent is a farmer. I passed his plantation this morning. I can beat him in grubbing, in cutting and splitting rails, in hoeing and picking out cotton. I am a better farmer than he is. On one branch of a farmer's life alone to him I yield the palm. *He can beat me in raising hog-weed and crab-grass.* Go to his farm, and then to mine, and compare; and, if you do not render a verdict in my favor, I will take down my name."

The allusion to *weeds* and *crab-grass* had its effect with the multitude. Martin was elected, receiving largely over a party vote.

Shortly after the close of his term of service in the Senate, he was seized with what appeared to be a bronchial affection, and which ultimately terminated in tubercular consumption. A portion of two winters previous to his death he spent in Florida, and died in the cars on the Central Railroad between Savannah and Macon, in March, 1847. His wife was with him, soothing him by her tenderness to the last; also some of his children were present when he expired, in the vain effort to reach home before he breathed his last, in the thirty-seventh year of his age.

Fully to illustrate his professional worth would be to give a history of all his lawsuits, to go with him through his midnight researches and toils, the selection of his authorities, the arrangement and drafts of the bills, the declarations, the pleas, the demurrers, the preparation of the evidence, and, finally, the unfolding of the merits before the courts and juries. Nothing of this kind can be attempted in such a sketch as the present. Parties and their descendants and relations, witnesses and their descendants and relations, with whose characters and interests he necessarily came in conflict, still live, and whose quiet ought not now to be disturbed.

He left his lovely companion and interesting family of children abundantly provided for. His distinguishing characteristics were a shrewd, discriminating mind, drawing distinctions with unerring correctness, an iron will, firmness and inflexibility of purpose, unyielding perseverance and industry in all his undertakings; a devoted husband and parent, a humane master; fidelity to his clients, gratitude to his friends,—the warmest gratitude to those who had assisted him in his early difficulties. Indeed, to such his gratitude was absolutely boundless. He was moderate but decided toward his opponents, a good economist, a skilful agriculturist, frugal in his expenditures, discriminating in his acts of benevolence, yet never withholding when, in his judgment, proper objects presented themselves.

Though at one period of his life he may have inclined to skepticism, it is certain that a sober examination of the evidences of Christianity convinced his judgment, and he remained to the period of his death a firm believer in the truths of revealed religion. Those who were his most intimate associates, who knew his bosom thoughts, entertain an abiding hope that he has gone to that rest which remains for the people of God.

The facts stated are sufficient to entitle Mr. Martin to an acknowledged rank among the clearest intellects which have adorned the profession of the law. He was a man of extraordinary force of character. His mind was radiant with light on legal questions, and there was no limit to its fertility. It is said that he

was in the habit of reading Blackstone's Commentaries through once a year, and that he confessed he discovered new principles and new beauties at every perusal. He read nothing carelessly. Whatever work or subject engaged his attention, he probed it to the bottom after truth. A very competent lawyer,* who once occupied the bench of Georgia creditably to himself and with much advantage to public order, remarked that he never felt safe in any stage of a cause when opposed by Jacob Martin; that the latter was so minutely versed in the curious distinctions of the law, aided by the strongest common sense, that any advocate was in danger of being tripped up suddenly when he least expected it.

Had Mr. Martin lived, he would most assuredly have reached a very high position at the bar and in the public favor. His early death is to be deeply lamented, while at the same time his friends ought to feel grateful that he lived long enough to establish a bright name, which will not be soon forgotten.

XXIII.

ANDREW J. MILLER.

No example can be afforded of eminent worth more generally recognised than that of the late ANDREW J. MILLER. His character may be read in the expressions of the Legislature, of corporate bodies, of the press, and by associates in public life, elicited by his death. As a collection of these has been kindly furnished by a son† of the deceased statesman, they are incorporated as a part of this memoir, as likely to do more justice than could be expected of any individual who, like the author, had no personal acquaintance on which to found his judgment. To avoid any suspicion of partiality, the author thinks proper to say that he is not a relative of the Hon. A. J. Miller, though such a tie would have been gratifying.

The parents of ANDREW JACKSON MILLER were Thomas Harvey Miller and Mary S., his wife, who resided near St. Mary's, Camden county, Georgia, where he was born (at Point Petre) on the 21st day of March, 1806. After obtaining such education as the

* The late Hon. A. M. D. King, as the author was informed by Philip Cook, Esq.

† Frank H. Miller, Esq.

schools in that quarter of the State afforded, at the age of sixteen years he was sent to the Military Academy at West Point to finish his education. But a trial of one term rendered him dissatisfied with the system, and he returned home. He soon commenced the study of the law at St. Mary's, under the direction of Archibald Clarke, Esq., with whom he remained as a student for a period of twelve months, and then went to Augusta, where he prosecuted his legal studies in the office of his uncle, the late William Jackson. Being under the age of twenty-one years, a special act* of the Legislature was passed, authorizing him to plead and practise law after the usual examination. At May Term, 1825, of the Superior Court of Richmond county, the Hon. Robert Raymond Reid presiding, Mr. Miller was admitted to the bar, and forthwith opened an office in Augusta. What has been his career since, and the merit with which he earned his fortunes, may be gathered from the notices taken of his death, some of which are, perhaps, more historical than any thing the author could produce from the materials in his possession.

An event which contributed much to his happiness took place on the 9th of October, 1828, when he married Miss Martha B. Olive, of Columbia county. Two sons, now in the practice of the law, besides other children, are the fruits of this marriage.

The business-habits of Mr. Miller, and his admitted abilities, soon gained him an extensive practice in all the courts of his circuit which he attended. He was very laborious in the preparation, and always had the facts and law of his cases arranged for effective use as occasion required. His success was at once established, and the path of advancement fully opened to him.

The people of Richmond county, in 1836, elected him a Representative in the Legislature; and the next year he was returned to the Senate, of which he continued to be a member until his death. He had been several times elected President of the Senate, in which position he evinced the highest administrative ability. When, from political majorities in the Senate adverse to Mr. Miller, he was passed over in the choice of presiding officer, his accurate knowledge of parliamentary law and of the rules of proceeding always caused him to be appealed to, in open Senate, when difficulties arose on points of order. During the service of twenty years his was the coolest, safest, and most practical mind in the Senate. And here the author deems no apology due to any

* See Dawson's Compilation.

class of readers for introducing the opinion of a virtuous citizen of Georgia who had served with Mr. Miller in the Senate. From ill health during the session of 1855-56, the gentleman* referred to had obtained leave of absence from the Senate to return home before the adjournment. On his way, he was asked by the author what men (naming three or four) took the lead in the Senate for ability and influence. The reply was, "The greatest man in the Senate is Andrew J. Miller. He is the best-informed and the wisest man I ever saw." Such was the testimony of a competent judge before the illness of Mr. Miller was known.

It is unnecessary to follow up the Journals of the Senate to show what bills, resolutions, reports, and other legislative action Mr. Miller originated or sustained. An abstract of these, creditable to his industry and judgment, might be made, were other evidence not ample enough. All the measures of the day which had the welfare of the State in view found in him a ready champion. These are glanced at, more or less, in the articles published on the occasion of his death, included in this memoir. He was a hard worker, and derived happiness from what many others—indeed, the largest portion of mankind—consider vexations and hardships. He believed, with an English poet,† that

"Life's cares are comforts, such by Heaven design'd ;
He that has none must make them, or be wretched.
Cares are employments, and without employ
The soul is on a rack,—the rack of rest,
To souls most adverse,—action all their joy."

He lived to realize what the poet further describes :—

"The man who consecrates his hours
By vigorous effort and an honest aim,
At once he draws the sting of life and death ;
He walks with Nature, and her paths are peace."

It is not within the province of the author to pronounce on the personal felicities or troubles of the men whose characters he may review in this work. He invades no domestic sanctuary to expose secret griefs, if there be any. But he ventures to remark, merely as an inference, that Mr. Miller must have enjoyed the domestic relations in a very placid degree, from his great mental activity. He had no time to brood over little things, petty cares, which

* Hugh Lawson, Esq., Senator from Houston county, who died May 20, 1856, whose father was a signer of the Constitution of Georgia, in 1789, and after whom the Hon. Hugh Lawson White, of Tennessee, was named.

† Young.

annoy sluggish minds. He was ever on the stretch from sphere to sphere,—enlarged constantly, as his energies were evoked by heroic determinations. That he possessed great and varied capacity is evident from the many offices and positions of trust which he held at the time of his death,—State Senator, President of the Medical College of Georgia, City Attorney of Augusta, Director of the Georgia Railroad and Banking Company, Director of the Union Bank, President of the Oglethorpe Infantry Loan Association, and Captain of the Oglethorpe Infantry. In 1853, he was appointed, by the Executive, Judge of the Superior Courts of the Middle circuit, which he accepted merely until an election could be had. He did not seek, nor did he desire, the office.

The author has no speech of Mr. Miller at hand to present as a specimen of his powers in debate. As a substitute, however, he gives a protest drawn up in 1850, which speaks for itself. It is taken from the *Augusta Chronicle and Sentinel* of January 25, preceded by editorial remarks:—

THE SENATORIAL BILL.

We subjoin the minority-report on the Senatorial District bill. Against the predetermined course of a majority faction—resolute in the perpetration of a deliberately-concocted scheme to attain party ends—no argument, however able, could avail aught. Debate was stifled. They wanted no argument. None was permitted. It was a party scheme,—so avowed, conducted and consummated as such. While it exposes the unscrupulous character of our opponents, let it incite the Whigs of Georgia—those who have been thus virtually disfranchised especially—to redouble their exertions and at the proper time perfect their organization. If it shall teach the Whigs in future contests the necessity of thorough organization and harmony, it will have accomplished good where no benefit was intended; and the harm sought to be entailed on the Whig party will recoil on its authors:—

The undersigned, members of the select committee to whom was referred the bill to reorganize the Senatorial districts of this State, dissenting from the report of the majority of said committee in favor of said bill, (and which they have not seen prior to its presentation,) beg leave to state the ground of their opposition to it.

They consider it inexpedient, because, the precedent of change being once set, constant changes will be made to suit the caprice or increase the influence of the political party that may for the time be in power; and there will not be that stability of representation in the Senate so much to be desired, and which has not yet been attained under the present organization. Moreover, it is, and is avowed to be, a mere party measure, to strengthen the present dominant party, when it cannot be denied that, considering the near equality of parties in strength, the present arrangement is as close an approach to what is due to each as can well be made. It is not pretended that the public interest calls for the passage of the bill.

But, passing from these considerations, which only address themselves to the sound discretion of Senators, the undersigned present an objection which they believe to be insurmountable, one in relation to which there is no division,—namely, the *unconstitutionality* of the proposed act. If they be right, (and they have no doubt of being so,) this *party* attempt ought to be frustrated by the interposition of the constitutional shield. The Constitution (as amended in 1842 and 1843) declares that the “Senate shall consist of forty-seven members, and shall be composed of one member from each district, which district shall be composed of two contiguous counties, *not including the county with the largest representative population, which shall constitute a separate district*, which districts shall be arranged and organized by the General Assembly at the session when this (amendment) shall be adopted; and if any new county shall be hereafter formed, it shall be annexed to one of the districts from which it may be taken.” This is the whole authority to the General Assembly in relation to the Senatorial districts. It was executed by the General Assembly of 1843, which adopted the amendment to the Constitution. Like any other power limited as to time and persons executing, it was then spent, and it cannot by any rule of construction be held to be a *continuing* power to any body by the same name subsequently convening. That this position is correct is shown by referring to the same amendment of the Constitution in relation to organization of the House of Representatives. After limiting the number of members to one hundred and thirty, allowing two Representatives each to the thirty-seven counties having the greatest population, and one to each of the other counties, it declares that “the said apportionment” (of Representatives) “shall be made by the General Assembly, at the session by which this section shall be adopted as an alteration of the Constitution, by an act to be introduced after the adoption thereof, and A NEW APPORTIONMENT SHALL BE MADE AT THE SESSION NEXT AFTER EACH FUTURE ENUMERATION OF THE INHABITANTS OF THIS STATE, MADE UNDER THE CONSTITUTION AND LAWS THEREOF, BUT AT NO OTHER TIME.”

The grant of power relative to the Senate ceases with its execution by the General Assembly adopting the amendment of the Constitution. In the grant relative to the House of Representatives, the power authorized to be used by the General Assembly of 1843, in the apportionment of members, is required to be exercised again at each septennial enumeration of the people. Can two cases be found more in contrast with each other than these *now* are? Is not the expression of authority in the one a clear exclusion of it in the other? And, if the exercise of the express power be limited to one time in seven years, how can the *silence* of the Constitution authorize a change of the Senatorial districts at any time the General Assembly may deem expedient?

It may be urged against the position taken that the fact of *the county having the largest representative population* being required by the Constitution to be made a separate district authorizes a change of the Senatorial districts,—because it may be ascertained at some future enumeration that the greatest representative population is in some other county than that which now forms a district of itself, and that such county must be disconnected from the one with which it is now associated, and Chatham connected with one of the counties contiguous to it.

The answer is that, at the time the Constitution was amended, Chatham was known, from the last enumeration, to have the largest representative population; and, if the framers and enactors of the amendment could have

overlooked the importance to that county (considering the diversified interests therein) of separate representation in the Senate, they cannot be considered as guilty of the folly of requiring the breaking up and reorganizing of a large number of the districts, after every enumeration, for the purpose of providing for one county. It is not so expressed, and *such folly is not to be presumed*. Moreover, even if it be so, Chatham yet has the largest representative population; and there can be no ground for the change of districts proposed until some other county have outstripped her in population and this be shown by septennial enumeration; and whatever changes may be made in other districts should only be such as are necessarily connected with the *transfer* of Senatorial influence from Chatham to the more fortunate county. But the bill does not propose to interfere with Chatham, and therefore is without even the *flimsy* support upon which it may be supposed to rest.

The undersigned have spoken briefly and plainly, because they desire to be understood when they oppose a measure which they consider violative of the Constitution.

ANDREW J. MILLER,
BLOUNT C. FERRELL,
PETER E. LOVE.

His course in the Presidential canvass of 1852 is shown by the following correspondence:—

ELBERTON, October 6, 1852.

HON. A. J. MILLER:—

DEAR SIR:—Some of your friends in Elbert, hearing it is your intention to support the independent Union ticket for Pierce and King, recommended by the people of Cass county, desire that you would appoint some day convenient to yourself to address them on the Presidential election.

Very respectfully,

THOS. W. THOMAS.

AUGUSTA, October 13, 1852.

THOMAS W. THOMAS, Esq:—

DEAR SIR:—I very much regret that it is not in my power to comply with the request of my friends in Elbert county, made known to me in your favor of the 6th inst. It would afford me much pleasure to see and to talk with those with whom I have for so many years been politically associated, and who have always been found gallantly and successfully contending at *home*, even though we were defeated in other parts of the battle-field.

It is known to them that in the present Presidential contest I am not a supporter of Gen. Scott. I dislike exceedingly the *influence* which occasioned his nomination over Mr. Fillmore and Mr. Webster, and am unwilling to extend that influence in the administration of the Government by him.

It is also known that I am not a supporter of Mr. Webster. He is no candidate. He cannot be, when he has been before the nominating-convention, and has been beaten without any unfairness being practised toward him. I say he cannot be a candidate under such circumstances, because I speak of DANIEL WEBSTER.

Then for whom am I? In the exercise of a preference, I am in favor of Mr. Pierce. Why? Because I am a Union man upon the Compromise measures, and believe him to be so too. I expect, and believe in, his full

enforcement of them so far as it is the duty of the Executive. Why do I expect and believe this? Because, from my own notice of his course in Congress, and the report of political opponents of his in this State, occupying positions favorable to correct observation, he presents in his past Congressional and public life "*as fair a record*" upon the questions connected with the institution of slavery "*as any man north of Mason and Dixon's line.*" Moreover, while we Union men of Georgia were standing upon and defending the Compromise measures, he was taking and successfully maintaining the same position at the North. As Georgians, then, men loving and desiring to perpetuate our National Union, can we not lay aside our prejudices—our old party issues—for the time, and manifest our proper and just appreciation of a New Hampshire patriot who has the same desire that actuates us? I certainly will, for one.

By what instrumentality shall I do this? is the question; and upon it is engrafted another:—Why should not all the friends of Franklin Pierce unite in the support of the "regularly-nominated Democratic ticket" of Electors? It is said you are not voting for the men composing it, but simply *appointing them*, by your votes, *to vote* for Pierce and King. With me there is always to be desired a fitness in things,—an agent appreciating and sympathizing with the views of the constituent. Then how can I, a Union man, (desiring to vote for Mr. Pierce only on the principles of the Union party,) constitute Southern-Rights men, (with one exception,) now calling themselves Democrats, my agents, to give my vote? They don't believe as I do upon the questions which control my vote: the very convention that nominated them *dodged* the Compromise; and they themselves have not, so far as I am informed, since their nomination, signified publicly their determination to abide by and insist upon the adjustment made by Congress.

Again, who is made prominent and powerful by the election of the "regular" ticket? The Southern-Rights men and their adherents; and this, too, without any disclaimer of the opinions they have held and endeavored to carry out during the last two years! Can I do this? Is there any fitness in it? Can I aid in the promotion of a man who desires, (as one of that ticket is reported to desire,) "when his spirit is wafted to heaven on angels' wings, to look back on the broken fragments of the American Union"? I will not. If a ticket had been made at Atlanta, composed of Union and Southern-Rights Democrats, I would vote for it, regarding such an arrangement as evidence of the willingness of the Southern-Rights men to acquiesce in the Compromise measures. It was not done; and the Union Democrats are required to submit to and support men to whom, with one exception, they have been opposed upon a vital question far above all former tests, to surrender themselves as prisoners, and *follow* in the procession that will grace the triumph of those whom they have heretofore beaten. Will you do it, old Democrats as you are? Never, never! And there are thousands of your old Democratic friends that will not. You will vote, as I and other Whigs will, for what some in derision call the "Tugalo ticket." Take the name and keep it; bear it forward, as I know you will, with honor. It may yet cast the vote of the State, and thus (like our own "Yankee Doodle" in Revolutionary and national history) a name may come to you from your enemies which in after-years will be magnified and honored because of the energy, spirit, and success of those who received it. This ticket may, and I hope will, be an event in the history of Georgia. Be not deterred by the idea of the expense

occasioned by the convention of the Legislature. That is small in comparison with the good that, in my view, will come. And, moreover, it will be the fault of the Southern-Rights Democrats if that expense should occur. Why did they not make a ticket at Atlanta, and thus prevent such a result?

My friends in Elbert have, in the foregoing lines hurriedly written, my views. I know their sterling integrity of character; and, if they think differently from me, the loss is mine, not theirs.

Very truly, your obedient servant,
ANDREW J. MILLER.

After the session of the Legislature in 1853-54 had closed, Mr. Miller announced his intention to withdraw from further service of the kind. His card is subjoined, with an editorial caption from one of the *Augusta papers*:—

RETIREMENT OF MR. MILLER.

The numerous friends of the Hon. A. J. MILLER, not only in this county, but throughout the State, will learn with regret his determination to retire from the Legislature. He has long been a faithful public servant, and has served his constituents and the State with marked ability.

To the People of Richmond County.

The last trust reposed by you in me has been discharged,—whether to the extent of your expectations, you alone can determine. I can only say that on all occasions you have had my best services, and that no opportunity has been lost to make a proper effort in your behalf, where your interests were involved.

For nearly eighteen years, at each session of the Legislature, I have represented you; and, although I know that my services have not been valueless, I never can forget your confidence and support. For these I tender you my *heart-warm* acknowledgments.

From many considerations, it is necessary that I should retire from your service; and I give you this notice of my determination to do so in order that you may in time look for a successor,—one who, I trust, will better and more ably represent you, and in and of whom your confidence and support will be as steadfast as they have been in relation to myself.

I cannot close this communication without another acknowledgment. I refer to the people of Columbia county, who, as well as yourselves, were represented by me during the continuance of the Senatorial District system, and to whom I owe the honor of being the only Senator who was consecutively returned. Columbia previously had claims upon me of an *interesting* and binding character, apart from any political association with her; and the wishes of her people would at any time have terminated my Senatorial candidacy. They, however, nominated me repeatedly in their county meetings, and without the slightest opposition. I shall ever feel *sensibly* and grateful for their confidence, which, I trust, has not been disappointed; and the recollection of the honor conferred will be among the last of life's remembrances.

Very respectfully, your fellow-citizen,

ANDREW J. MILLER.

He was prevailed on by his constituents to go back once more to the Senate. It was his last! Returning home a few days to attend court, he was taken ill, and died in the arms of his family, February 3, 1856, at the age of fifty years,—too soon for his country, but ripe enough for fame. The event took the public by surprise. A wail of grief sounded through the land: a public benefactor had fallen! A number of newspaper-articles, the proceedings of the Legislature, and other manifestations of respect for his memory, are submitted:—

(From the Chronicle and Sentinel, February 5, 1856.)

DEATH OF THE HON. A. J. MILLER.

Little did we imagine, when we penned the paragraph, Saturday evening, announcing his extreme illness, that we should be so soon required to perform the melancholy duty of announcing the death of the Hon. ANDREW J. MILLER. Yet it is true,—a sad, oppressive truth. He died about eight o'clock, Sunday morning. The loss of such a man, so universally beloved and esteemed, and of such great usefulness in all the relations of life, public and private, is a great calamity to the city of Augusta and the State at large. But we have not time to say more now. At our request, a gentleman whose distinguished ability, and whose long and intimate acquaintance with and devoted friendship for the deceased, eminently fit him for the melancholy task, has prepared a more extended and much more appropriate notice of our honored fellow-citizen and friend, which we append:—

The drapery in which our paper goes out this morning is faintly typical of the feeling which pervades our population. Augusta mourns. One of her ablest, best, best-beloved citizens has fallen,—fallen in her service,—a victim to that service. ANDREW J. MILLER is no more! Although sorrow for the honored dead will be most intense in the city of his late residence, we are all aware it will not be confined to her limits. This announcement will go laden with heavy grief to every portion of our State,—even to her farthest borders. It will spread the pall of gloom over our Capitol, and sadden the hearts of Senators and Representatives now there sitting in General Assembly. How sadly will they realize that one of their wisest, purest, most trusted associates will mingle no more forever in their counsels! How mournfully will they gaze upon that vacant chair, so long graced by the occupancy of the SENATOR from RICHMOND! In attempting a brief sketch of a life surpassingly useful and honorable, we aspire not to present a merited eulogy; we but seek relief from overwhelming sorrow through the channels in which our feelings are wont to flow out.

The deceased was born and reared in the county of Camden, in this State, where his worthy parents lived long and have recently died lamented. His academic education was completed at West Point, where, whilst his mind was stored with useful knowledge and his character set in the mould of firm consistency, he acquired a taste for and familiarity with military tactics which won him distinction among our citizen-soldiery,

and afforded pleasant recreation throughout a life of severe and well-directed toil.

His professional studies, preparatory to admission to the bar, were commenced in St. Mary's and completed in this city, where, in the year 1825, before attaining the age of manhood, under a special act of the Legislature, he was licensed to practise law. His professional career opened with no flourish of trumpets, no extravagant predictions of future renown, (often put out to aid in accomplishing the end foretold;) nor was it signalized by the efficient support of active influential friends. His prospects were such as intrinsic merit opened to him, his destiny just what he would make for himself. This he well knew; and with noiseless step, but with firm purpose, and untiring industry, and perfect integrity, he entered the lists with competitors already known to fame.

How he succeeded let the records of our courts, let his numerous faithfully-served and grateful clients, let his professional brethren, who honored and loved whilst they wrestled with him, let the judges whose administrations have been illumined by his forensic efforts,—let *these* testify.

Gradually this professional advancement developed traits of character and of mind to be limited to no mere routine-course of life, to be confined to no single pursuit.

Attracting the attention and winning the confidence of all who held intercourse with him, the counsellor-at-law became the adviser-general of the community. In the administration of estates, in municipal affairs, in financial operations, in enterprises to advance commerce and extend internal improvements, in legislation and in politics, his personal co-operation, and often his leading action, were largely demanded by an appreciating public, and freely and efficiently yielded by this self-sacrificing man. In the year 1836, he was literally pressed into the service of Richmond county, as a Representative in the popular branch of the State Legislature. The year following, without solicitation or effort on his part, he was promoted to the Senate, in which body he has from that time to the present continuously represented the same devoted and grateful constituency. What ANDREW J. MILLER was in the community of Augusta he soon became in the Legislature of Georgia,—a man of all work, efficient in all things, trusted and deferred to by all men of all parties.

Twice elected President of the Senate, he discharged the delicate and difficult duties of that prominent position with signal dignity and ability. We hazard nothing in saying that, in the history of our State, no man has for a period of twenty years wielded an influence so large and beneficent over the Legislature of Georgia. Posterity will find his footprints in legislation for educational, financial, judicial, and internal-improvement purposes,—nay, wheresoever they trace progress in reform or advance in true civilization. Higher stations were within his reach, and, had he lived, would probably have been forced upon his acceptance; but these could have conferred no higher honor than he enjoyed.

The mental and moral constitutions of Mr. MILLER were admirably balanced,—perfectly unique. As a public speaker he was fluent, perspicuous, logical, and concise. Careless of ornament, studiously avoiding all attempts at merely oratorical display, he never offended against good taste, and seldom disappointed expectation. He never used the art of oratory for exhibition of himself; but, to refute error, to vindicate truth, to accomplish a good purpose, he employed it skilfully and successfully.

He treated subjects he was called to discuss as matters for grave thought and logical argument, and with the bestowal of these he dismissed them. He exhibited great versatility of talent, but in all its phases devoted to the useful, the practical. Those who knew him best were often amazed at the facility with which his mind would turn from law to politics, thence to finance, thence to legislation,—and the clearness and energy it displayed in all.

As in his mental constitution, so in his moral character there was perfect consistency, beautiful harmony. Truthfulness was its broad basis, and frankness, in all its relations, its daily emanation. Amid his varied and laborious occupations he found ample time for attention to social duties, moral obligations, public and private charities, and offices of friendship. The kindness of his nature shone conspicuously in all he said and all he did. In his demise the poor and lowly have lost a friend whose purse relieved their wants, whose counsel solved their perplexities, and whose sympathy soothed their griefs. To crown a character combining so many excellencies came, in early boyhood, the redeeming influences of Christianity. Mr. MILLER had been for many years a communicant of the Presbyterian Church; and, although too feeble, when apprized that his dissolution was at hand, to give expression to his thoughts and feelings, the calmness with which he received an unexpected annunciation of a fact so appalling gave earnest of foregone preparation for the change. We cannot omit to add that the exercise, for so long a period, of so great activity and influence, and the correlative enjoyment of so large a share of respect and deference, occasioned neither pretension, ostentation, nor self-conceit. There was a ruling quietness in his demeanor which indicated unconsciousness of the space he occupied in the public eye.

Ten days since, the deceased was in his place in the Senate, slightly indisposed, it is true, but not incapacitated for business. Exposure to the unusually-inclement weather that has recently prevailed subjected him to an attack of pneumonia, which resulted in the calamity so inexpressibly deplorable. Recalled temporarily to his home, on the 27th ult., by professional engagements, he lay down beneath his own roof to languish and—surrounded by wife, children, and friends—to die. After all, that which awakens our most poignant regret, and which we touch with a trembling hand, is the crushing sorrow of the inmates of that homestead. Well do we know that their griefs press heavily upon ten thousand sympathizing hearts. But we forbear: the ground whereon we tread is sacred.

To-day we consign all that remains of ANDREW J. MILLER to his last earthly resting-place. Peace be to his manes! All honor to his memory!

PROCEEDINGS OF COUNCIL.

Called Meeting of Council, February 4, 1856.

Present,—William H. Dearing, Mayor; Members, Messrs. Blodget, La Roche, Hight, Walker, Dye, Conley, Butt, Stark, Goodrich, and Bassford.

The reading of the minutes was dispensed with.

The Chair stated that the convention of the City Council was called for the purpose of paying the last tribute of respect to the Hon. ANDREW J. MILLER, late city-attorney.

Mr. Conley, member from the Third Ward, in a few appropriate remarks,

announced Mr. MILLER's death to the Council, and introduced the following preamble and resolutions, which were unanimously adopted :—

ANDREW J. MILLER IS DEAD !

What announcement could be made to the City Council of Augusta that would cause deeper sorrow or more profound regret? It is therefore meet and proper that we should give some expression to our feelings, showing the love we entertained for him while living and our respect for him when dead. Therefore

Resolved, That the City Council of Augusta have heard, with feelings of sincere sorrow and regret, of the death of the Hon. ANDREW J. MILLER, who for many years has occupied the responsible position of city-attorney, and whose valuable services and untiring efforts have always been devoted to the advancement and prosperity of our beloved city.

Resolved, That in the sudden decease of Mr. MILLER the city has been deprived of the eminent counsels and active labors of one of its most distinguished citizens, which loss will be deeply felt, not only by our city, but by the State, in whose service he has been so often called, and where, in discharge of his duties as Senator from Richmond county, he contracted the disease which has removed him from our midst.

Resolved, That, while bowing in submission to this afflictive dispensation of divine Providence, we tender to the bereaved family of the deceased our heartfelt sympathy, and trust that they may be comforted by the assurance that their loss is his eternal gain.

Resolved, That the Council-Chamber be put in mourning for the space of three months, and that the members of Council wear the usual badge of mourning for the space of thirty days.

Resolved, That his Honor the Mayor request through the public papers that all business be suspended in the city and the stores closed from 11 to 1 o'clock to-morrow, and that the various bells be tolled during the funeral ceremonies.

Resolved, That, as a further mark of respect to the deceased, the City Council will attend the funeral in a body.

Resolved, That his Honor the Mayor transmit a copy of these resolutions to the family of the deceased.

On motion, Council adjourned.

SAMUEL H. CRUMP,
Clerk Council.

MEDICAL COLLEGE OF GEORGIA, Monday morning, February 4, 1856.

At a called meeting of the trustees, faculty, and students of the medical College of Georgia, Dr. L. D. Ford was called to the chair, and Dr. H. F. Campbell appointed secretary.

The object of the meeting having been stated by the Chair, the following preamble and resolutions were read by Dr. I. P. Garvin, and unanimously adopted :—

The providence of God has removed from our midst our beloved President, ANDREW J. MILLER. His exalted moral worth and his eminent public services, no less than his official relation to the Medical College of Georgia, demand some public manifestation of our sympathy and respect. Therefore,—

Resolved, That by the death of the Hon. ANDREW J. MILLER this college has lost a valued and long-tried friend, the city one of her most

eminent and useful citizens, and Georgia one of her most distinguished sons.

Resolved, That the lectures be suspended during this day and to-morrow, and that the trustees, faculty, and students will attend the funeral services at the Baptist church, and accompany his remains to their final resting-place.

Resolved, That a copy of these resolutions be forwarded to each of the city papers for insertion.

LEWIS D. FORD,
Chairman.
HENRY F. CAMPBELL,
Secretary.

MEETING OF THE BAR.

AUGUSTA, February 4, 1856, 10 o'clock A.M.

At a meeting of the bar of Richmond county, convened for the purpose of expressing their grief at the decease of the Hon. ANDREW J. MILLER,—

On motion, the Hon. William W. Holt was called to the chair, and Edward J. Walker, Esq., requested to act as secretary.

On motion of Hon. William T. Gould, a committee of five members of the bar, consisting of Messrs. William T. Gould, Henry H. Cumming, Charles J. Jenkins, William R. McLaws, and William A. Walton, was appointed to report to an adjourned meeting resolutions expressive of the sense of the meeting on the melancholy subject on which they were convened.

On motion, the meeting adjourned to 4 o'clock this afternoon.

Four o'clock P.M.—The members of the bar met according to adjournment, when Edward J. Walker, Esq., the secretary, being necessarily absent, Garland A. Snead was appointed secretary.

The committee of this morning, through the Hon. William T. Gould, chairman, reported the following preamble and resolutions, which were unanimously adopted:—

The members of the bar can find no language to express their feelings in the death of their distinguished and lamented brother, ANDREW J. MILLER. For thirty years he has been a valued and honorable member of the bar; and having, after a comparatively brief training, risen early to the front rank of the profession, he has long occupied an eminent position among his brethren. To his professional distinction is to be added a high rank among our public men. No one has been more prominent or more useful in the councils of the State; and of none could the untimely removal have been a greater public calamity. To our city, with all whose interests he was most intimately connected, and whose prosperity he was most efficient in promoting, the loss is irreparable. When to all this we add a personal character equally conspicuous for the most sterling integrity and the most conciliating disposition and active benevolence, we are compelled to realize that a man has been taken from our midst whose public, private, and professional character alike rendered him an object of respect and admiration while living, and of the deepest regret, now that regret is the only tribute we can pay. In view of this calamity, it is unanimously

Resolved, That this bar deeply lament the loss to the profession, the

city, and the State, occasioned by the death of our distinguished brother, A. J. MILLER.

Resolved, That we tender to the family thus heavily bereaved our sincerest sympathy in their deep affliction.

Resolved, That, as a token of respect for the memory of our deceased brother, the members of this bar will attend his funeral to-morrow in a body, and wear the usual badge of mourning for thirty days; and that the other officers of the court be respectfully requested to unite with us in these demonstrations of respect.

Resolved, That these resolutions be presented to the court at its meeting to-morrow, with a request that they be entered on the minutes, and that a copy of them be forwarded by the chairman to the family of the deceased, and published in the city papers.

On motion of Hon. William T. Gould,—

Resolved, That the members of the bar meet in a body at the late residence of the deceased, at 10½ o'clock A.M., to-morrow.

On motion of James Gardner, Esq.,—

Resolved, That the members of the bar will attend the funeral of the deceased on foot.

On motion, the meeting adjourned.

WILLIAM W. HOLT,
Chairman.
GARLAND A. SNEAD,
Secretary.

(From the Chronicle and Sentinel, February 6, 1856.)

FUNERAL OF THE HON. A. J. MILLER.

Yesterday the last sad rites were paid to the remains of this honored citizen and favorite son of Augusta. It was, indeed, a day of mourning, of deep solemnity, in which all classes of our population participated. Never have we witnessed such a universal demonstration of sympathy and regret by a whole community, and we never expect to see such another in Augusta or elsewhere. We were aware that the deceased had a strong hold upon the affections of the people among whom he had so long lived, and whom he had served so ably and faithfully in all the relations of life that they esteemed, nay, loved and honored him; but we confess we had no idea of the depth of that feeling,—no conception of the profound regard they cherished for him in their heart of hearts. We will not attempt a description of the demonstration. No language that we can employ, however forcible and graphic, could convey to the absent reader even a faint idea of the reality. It had to be seen and felt (for no one who saw but felt its all-pervading influence) to be appreciated. There was no attempt at display: it was the simple but expressive manifestation of a people who were profoundly conscious that a heavy blow had fallen upon them,—that one of their purest, their noblest, and best men had passed to "that bourne whence no traveller returns,"—had been cut down in the prime of life, in the zenith of his usefulness and in their service,—cut down, though, in their midst, and surrounded by those who knew him best and loved him most. Business was entirely suspended in every department. Stores, banks, warehouses, and workshops were everywhere closed; and all, all united in paying the last sad tribute to the honored dead. We are sure we do not exaggerate when we assert that from eight to ten thou-

sand people were present to witness and unite in the funeral ceremonies.

As the Presbyterian church, of which he was a member, was undergoing repairs, the use of the Baptist church was tendered for the occasion, where the funeral service was performed by the Rev. Mr. Riersen, pastor of that church, assisted by the Rev. Dr. Davis.

The procession which escorted the corpse from the church to the cemetery was one of the most imposing and the largest we ever witnessed, in which the Masons, military, faculty and students of the medical college, and citizens of all classes, united. He was interred with Masonic and military honors.

THE LEGISLATIVE COMMITTEE.

The joint committee of the Senate and House appointed to attend the funeral could not reach this city in time. The Mayor received the following despatch from the chairman:—

MACON, February 5.

Hon. W. E. DEARING, Mayor:—

A joint committee of both Houses came this far on their way to attend the funeral of the Hon. A. J. MILLER; but the trains failed to connect, and we cannot reach Augusta in time.

LEVI J. KNIGHT,
Chairman.

PROCEEDINGS IN THE LEGISLATURE.

From the Milledgeville correspondence of several papers the following portions are selected:—

February 4, 1856.—Reliable information having been received of the death of the Hon. A. J. Miller, Senator from Richmond, at his residence in Augusta, both branches of the General Assembly appointed committees to attend the funeral, which takes place on to-morrow, and then adjourned.

A feeling of sadness seems to prevail in both branches. His loss is not only a severe blow to the body of which he was a most valuable member, but to the State, in whose service as a legislator he has spent many years of the prime of his existence. Possessing intellect clear and comprehensive, he never seemed at fault on any question. Green be his memory in the hearts of a people to whom he devoted the energies of a gifted and cultivated mind!

IN SENATE.—The melancholy intelligence of the death of the Hon. A. J. Miller, late a Senator from the county of Richmond, was communicated by Mr. Pope, of Wilkes, in a simple announcement of the event, and a motion that a committee be appointed to draft suitable matter touching this sad calamity. Whereupon the President appointed Messrs. Pope, Cone of Greene, Wingfield, Dunnagan, and Wales.

Judge Cone then offered the following resolution:—

That a committee of three Senators be appointed to join a similar number of members of the House of Representatives, to proceed to Augusta in their official capacity, to attend the funeral of the Hon. Andrew J. Miller, late a Senator from the county of Richmond.

The resolution having been unanimously agreed to, the President appointed the Hon. Levi J. Knight, of Lowndes, Hon. William M. McIntosh, of Elbert, and the Hon. Le Grand Guerry, of Randolph, as the Senate Committee.

On motion of Mr. Knight, the Senate then adjourned.

February 5, 1856.—The committee appointed to draw up a set of resolutions expressive of the feelings of this General Assembly with regard to the great bereavement sustained by Georgia in the loss of her distinguished statesman, ANDREW J. MILLER, offered the following resolutions, which were unanimously accepted:—

Resolved, That the intelligence of the death of the Hon. A. J. MILLER, late a member of the Senate from the county of Richmond, is received with deep concern and regret by this body.

Resolved, That the distinguished and useful public services of the deceased in the various eminent positions that he had occupied, no less than his private worth, have rendered his name dear to the hearts of his countrymen. He was honest as a man, just and able as a lawyer, and patriotic as a statesman. We will not approach the grief and anguish of the widow and orphans. We leave them to the merciful protection of the Great Author of our being, who in his wise but inscrutable providence has caused this bereavement, and to the consolation of that religion which brought life and immortality to light. Our warmest sympathies are with them in their affliction.

Resolved, That we will wear the usual badge of mourning during the continuance of the session.

Resolved, That a copy of these resolutions be sent to the family of the deceased, and also be entered upon the journals of the Senate.

MR. POPE, of Wilkes, chairman of the committee, having read the resolutions, paid an eloquent and touching tribute to the memory of the deceased:—

MR. PRESIDENT:—The circumstances that convene us together this morning are mournful and impressive in the extreme. We have met to notice the death of one who but one week ago was in our midst, commingling with us in our deliberations, and taking an active part in the Legislative proceedings. For eighteen long years he represented in our State Legislature an intelligent constituency, ever giving them entire satisfaction, and always acting for the best interests of Georgia. And, while we are performing this last sad act of respect to his memory, let us think what a mournful spectacle is now taking place in the city he represented. The funeral-bell is now tolling the death of him who served them so faithfully, so ably, so honorably, so nobly; and, as the sad sound slowly and distinctly peals forth, tears of anguish flow from those who loved him as a friend to Georgia. I deem it, sir, proper to state a few circumstances of his life. He was a native Georgian, born and raised in the county of Camden. In 1826, he went to Augusta and commenced the practice of law, and in 1836 he represented the county of Richmond for the first time in the Legislature. For eighteen consecutive years he held an eminent, distinguished position in this body. Sir, I do not intend to draw invidious comparisons or speak to the disparagement of any member; but no one took a loftier, higher stand on this floor than he did. Watchful, vigilant in his action upon important measures, he was ever

ready to offer advice to inexperienced members. He came here at a time when great questions and issues were pending, and ever left his impress upon the legislation of the State.

There is one circumstance which I cannot help relating. About twelve days ago, after having been engaged the whole day in the discharge of his Senatorial duties, he came home, saying that he felt he should be confined to his room; and he sent for me. I found him much dejected and cast down, and he made this remark, which I shall never forget:—"I greatly fear I shall be taken sick and die away from home. I have long desired that, whenever it pleases Heaven to take my life, I shall die in the bosom of my family, my wife and children around me." Heaven granted his request. Senators, this is a solemn, impressive lesson. It should fall upon each one's heart, warning him that there is but one step between us and death.

"Death steals along with silent tread,
Found oftenest in what least we dread;
Frowns in the storm with angry brow,
But in the sunshine strikes the blow."

The last two years have been a marked epoch in the history of our State. One, and another, and yet another, of our great men have successively gone to that "bourne from which no traveller returns." The responsibility thus left on our shoulders is increased tenfold. Let us gird ourselves, then, for the battle; and, when at length the last dread summons strikes upon our ears, we may be prepared to meet with humble though unshrinking hearts the dark trial, conscious of having done our duty, and able to look back upon a life well spent in the cause of our country and our God.

Judge CONE then arose and spoke:—

SENATORS:—The duties which now devolve upon us, and which are both pleasing and mournful, admonish us all how brief a thing is life. There is nothing which so commands, and deserves to command, our attention as the stroke of "Death." Our recent bereavement tells us, in language that cannot be mistaken, that ere long we too shall be called upon to walk through the dark valley and the shadow of death. We shall soon be called upon to resign the joys and pleasures of social life. The relatives and friends that now know us shall soon know us no more; and it is useful, amid the conflict of passion and the strife of clashing interests, for us to remember that we have to render an account to God. One short week ago, and he we now deplore was with us, engaged in the active and able discharge of the duties of his station. He stood among us more than a peer. He was among the ablest in this chamber. His experience, his wisdom, his integrity, his truth, all caused us to look upon him as a counsellor and an exemplar; but God had numbered his days, and said to him, "Thus far shalt thou go, and no farther." So inscrutable are the ways of Providence. The moan of the widow and the cry of the orphan shall ascend to God for the loss of their protector amid the lamentations that go up from his grave.

Sir, I have known Mr. Miller for twenty years,—for twenty years of professional life; and I never knew one more courteous or more kind than he. He was the embodiment of truth; and no professional temptation swerved him one iota from the path of duty. No language can do him justice in his domestic relations: as a father, he was devoted and

kind ; as a master, charitable and forgiving ; as a lawyer, the soul of honor and embodiment of truth. He has left his character upon our laws, and the records of the Senate attest how much he did for Georgia.

Sir, he was a gentleman,—a man of honor ; as a legislator, enlightened and liberal. Full of honors, he has resigned his soul to God. He has gone to that bourne from whence no traveller returns. But, sir, he was guided by the precepts of that religion which “brought life and immortality to light :” neither sin nor sorrow reigns in the sphere where he now dwells and the entrance to which he has won by his worth. I would here call upon the young men of the bar of Georgia to gaze upon his bright example and learn from him how to be good, useful, and great. The sacred griefs of the bereaved family I cannot approach. None can know how bitter are the widow’s tears but she who sheds them. None but an orphan knows an orphan’s grief. But we may leave it to God, whose hand struck this blow, to pour the oil of consolation upon the hearts he has himself afflicted, and commend to them that religion which has a solace for every woe. The ways of the Lord are strange and inscrutable, but he has told us they are wise : let us not repine because we cannot understand. We too will ere long be called upon to meet the great event. My years admonish me, and the companions I have long known,—and so many of whom are gone,—all bid me remember that my own end cannot be far distant in the future. Colquitt, Meriwether, Dougherty, Charlton, Sayre, and now Miller,—all friends, and long companions with me at the bar,—are gone : I too must go ere long.

Sir, let us take to heart the solemn lesson which our affliction teaches, and so act our part that we may merit at its end the same eulogies which are the right of him we deplore. Let us endeavor to merit the consolation of our divine religion and its last great reward,—a home in that Paradise where sin, sorrow, and suffering are no more, and in which sinful man shall stand up redeemed, regenerated, and disenthralled !

MR. CALHOUN, of Fulton, next addressed the Senate :—

MR. PRESIDENT :—It was not my intention to have said any thing upon this occasion, as I am not gifted in the language of eulogy or panegyric ; but, sir, when I remember the long and friendly intercourse which has existed between the distinguished Senator—whose death we all so deeply lament—and myself, I cannot be silent. Brother Senators, remembering this, I am admonished it would be too indifferent, too cold, and too heartless, to be silent.

Though it be in unstudied words, I must give some utterance to the emotions which I feel. I must mingle my voice with yours in the expression of my grief and in bearing testimony to the merits of our distinguished friend.

Humble as I esteem myself to be, if the grim messenger had made choice of myself instead of my honored and distinguished friend, something tells me that ANDREW J. MILLER would have been heard in this chamber doing full justice to what little merit I might have possessed. Such is my opinion of the kindness of his nature and of the warmth and generosity of his noble heart.

Nearly nineteen years ago I first formed an acquaintance with our lamented friend, both of us then being members of the General Assembly. On first acquaintance I was strongly impressed with his honesty and ability, and the most friendly relations have existed between us ever since.

I have been with him at the bar, served with him here four years ago when he was the presiding officer of this body, and again during this session; and all I have seen or known of him only serves to increase the high opinion I formed of him on first acquaintance.

I need not repeat what has been so feelingly and eloquently said by Senators who have preceded me, but will add that in all the great efforts made within the last twenty-five years, calculated to promote the interest and power of Georgia, ANDREW J. MILLER acted a most conspicuous part; and to write *his* history would be to write the history of Georgia during that time. He loved Georgia, and Georgians were proud of him and will mourn his death; but, though dead, his reputation will live. His virtues and noble deeds are engraved upon the tablets of their hearts.

But a few days since he was here,—our constant associate and friend, mingling in our social converse and leading in our councils. We leaned upon his wisdom and experience as a legislator for guidance and safety. But, now he has gone, who will be the strength of our weakness and the star of our night? We shall never see him again,—never hear him answer to the call of his name,—never greet him or hear his eloquent voice ringing in this chamber. He is done with earth and all its petty strifes. As a mortal, never will he behold his friends on earth, gaze upon and admire the brilliant stars which beautify and adorn our night, or the glorious sun which lights up our day as he rides in his majesty from his eastern to his western horizon. But it is a consolation to believe that “it is not all of life to live.” Our friend, while in life, drank from many a cup of pleasure, of preferment, and honor. But his joys were mortal,—but a moment compared with that eternity of bliss which is promised to the faithful, and which I humbly pray he may enjoy.

I will close what I have to say on this solemn occasion in the prayerful language of poetry:—

“Farewell, gallant eagle! thou’rt buried in light;
God speed thee to heaven, lost star of our night.”

On motion, the resolutions were sent to the house, and the Senate adjourned.

In the House of Representatives, Mr. MILLEDGE arose, and made the following remarks upon the death of his lamented colleague, ANDREW J. MILLER:—

SIR:—I rise to perform a painful, heart-rending duty. A day or two since, I was shocked by the rumor that my colleague, the Hon. A. J. MILLER, had left this world for a better one, and was sleeping the last sleep; yet a hope, a false hope, lingered in my bosom, that it might be a mere unfounded report. But yesterday I received intelligence that on Sunday morning, surrounded by his family and that community he had so faithfully served, he breathed his last, and expired in the arms of his friends. A week since, he was unwell here, and, apprehensive that serious sickness might ensue, he said if God willed he should die, let him die in the bosom of his family. His prayers were answered.

On Monday he was in the court-room, attending to his business. On Tuesday he was confined to his bed, and in a few days he was lying a cold, inanimate corpse. I deem it my duty, sir, to give a short history of his political life.

In 1836, he was sent as a Representative from the county of Richmond, when Gordon, Hill, Jenkins, Harris, Stephens, and many other distin-

guished men represented the different counties, when the great enterprise of the Western and Atlantic Railroad was projected. He manifested indomitable energy in aiding the accomplishment of this immense work.

In 1837, he was returned to the Senate, and the records show that he was immediately accorded a place in the first rank. Doubts and difficulties disappeared before his untiring energy. For many years, he was presiding officer, and in that capacity he was eminently successful. He was an oracle upon legal points, and his decisions were always final. Few did more for the honor and prosperity of the State. Many have had more eloquence, more genius, but none have manifested more continued assiduousness, more elaborate preparation for acting. I do not say too much when I say, a more useful man could not be found, nor have legislative records ever shown one more liberal, high-minded, and patriotic. Party spirit, even when raging fearfully high, never moved him. With his eyes fastened on the greatest interests of the State, he pursued his course with unswerving devotion. As a politician, he was firm, strongly devoted to his principles; yet during my whole acquaintance with him I never knew his conduct to his opponents to be characterized by littleness or injustice. Always fair and open, he wished every man to think for himself.

As a lawyer, he had no superior; he was sound as a counsellor and able as an advocate, ripe and mature in his judgment, and rarely ever failed. His is a noble example for young lawyers to follow. Let them be industrious, energetic, always prepared to produce their authorities, intimately acquainted with every branch of the profession, and they will attain position to be envied. As a man, he was all that was noble, kind, social, gentlemanly; and I never knew him to be angry. Amiable, easy of access to all, young and old, rich and poor, he was also a Christian. Many a widow and orphan, whom he in his charity has consoled, will follow him to the grave with tears and laments. He was a friend to all, and his advice sought by all. When matters of great importance were pending before the city authorities of Augusta, he was consulted to solve the difficulties. He was a friend to the merchant, to the farmer: in truth, sir, the whole city leaned upon him as the pillar that supported it; and now that sorrowing, grief-stricken city bewail and mourn his untimely loss. Sir, I cannot express all that I feel. I am unable to do justice to the subject. I would rather go off in solitude and silence, and commune with my own thoughts in this great affliction, than be standing here trying to do justice to this great man, this statesman, this honest, truthful lawyer. But, sir, he was a Christian. He has been called to shut his eyes on the transitory things of this world, and I believe he has gone, where those go who trust in Jesus Christ, to reap the reward promised to the righteous.

Mr. THORNTON, of Muscogee, also addressed the House:—

MR. SPEAKER:—If tears are shed upon the banks of the Savannah, so likewise are tears shed upon the banks of the Chattahoochee. Not to Richmond county alone belongs the fame of our departed statesman. I claim him in the West as in the East. He was a Georgian, and as such his memory belongs to Georgia. He was, sir, the friend of woman; and I am glad that they, by their presence to-day, sanction the last act of respect paid to his name. He was the first who raised his arm and his voice to battle for woman's rights. For eighteen years he fought for the widow and her daughters, and he never would have ceased his efforts until he had carried his bill for the protection of their property. They

should build him a monument, to commemorate his exertions in their behalf. He was their friend and advocate. But, sir, it is unnecessary to enumerate the many noble acts of this noble man. The judicial system bears his mark: it is the brightest monument that perpetuates his name. Death is always impressive; but when the good and gifted are so suddenly stricken it is doubly so.

"Leaves have their time to fall,
And flowers to wither at the north wind's breath,
And stars to set;
But thou, O Death, hast all seasons for thine own!"

The House then adjourned.

CITY COUNCIL OF MILLEDGEVILLE.

The Mayor and Aldermen of Milledgeville, recalling to remembrance the steadfast friendship manifested toward this city through a series of years, commencing in 1836 and continuing down to within a few days past, by the late ANDREW J. MILLER, Senator from the county of Richmond, cannot permit this hour of public grief, occasioned by his recent death, to pass, without mingling our sorrow with his own Augusta over his tomb:—

Resolved, That, having witnessed for near twenty years his untiring devotion to the interests of Georgia,—his zeal in promoting the prosperity of Augusta,—and having repeatedly received his aid and counsel in making this place worthy of being the permanent seat of Government,—he has placed this community under a debt of gratitude which made us respect and admire him while living, and will make us fondly cherish his memory now that he is no more.

Surely no other man was ever deplored, ever honored, to this extent in Georgia. A volume could not signify more. The press, in tones of genuine sympathy, gave forth its sorrow for the noble dead. Nothing need be, nothing can be, added to adorn the picture of so perfect a life, after what has been here collected from sources that command the respect of all men. ANDREW J. MILLER has been consigned to fame upon the record of his actions.

Although intended as a private letter, the writer* will assuredly pardon the use here made of it. The author had written to him, requesting any letters from Mr. Miller containing advice or directions for the future, (which he was very competent to give his sons while they were from home obtaining their education,) the privacy of such epistles constituting their main charm. What is written for the public eye is more artificial, as everybody knows. An extract from the reply is here submitted:—

I find, after an examination, that I will be able to impart but little of the information you desire; for, not having long since arrived at the age of maturity, I have not devoted that attention to my father's political life that it merited. My knowledge of him was as a father, and, to some extent, as a lawyer. I regret that neither myself nor my brothers have

* Frank H. Miller, Esq.

preserved any of his letters written during our school and college days. We never supposed that a day would come when they would be valuable, and, like school-boys, manifested but little forethought.

* * * * *

Most of my father's political papers were at Milledgeville at the time of his death, and have never been recovered, or, rather, returned to his family. He was plain and unaffected in manners and speech, suiting the word to the thought and expressing it as plainly as possible. He rarely, if ever, used a metaphor, and never a hyperbole. Truth was ever clothed in its plainest garb, and honor ranked highest in the catalogue of human virtues.

As a father, he was all that could be desired,—kind, considerate, loving, and yet requiring implicit obedience. During the last year of his life he frequently regretted that he was unable to devote that time to his family which he desired and they had a right to claim. As a man, he was warm-hearted, generous, and confiding. As a lawyer, he was the earnest and impressive advocate of justice, ever mindful of his client's interest, though he deemed the duty to his God and to himself of a prior nature, and never, if he was aware of it, advocated an unjust cause. During the whole of thirty years' practice, he never appeared but three times in prosecutions for murder, and, on each occasion, appeared only upon the condition that, if from the evidence he believed the prisoner not guilty of the charge of murder, he should be allowed the privilege either of retiring from the case or stating his opinion to the jury.

As a statesman, it will be left for history to decide. He was ever to be found battling for the true interests of his State, and was always a true friend to woman. His most remarkable faculty was memory. He *never forgot*. He could remember the minutest details years after the event had occurred. As a practitioner of law, he possessed the faculty of expressing every thing in few words,—which he ever found to his advantage, and particularly in equity practice.

He was of small stature and pleasant address, had blue eyes, which wore the appearance of gray as he grew older, large mouth and nose, and a lofty forehead, which expanded and grew broader the longer he lived. He had an amiable expression of countenance, though there ever appeared around his mouth those small lines which indicated decision of character.

To perpetuate his name and to testify their high regard, the Legislature, by act* of February 26, 1856, created a new county from parts of Baker and Early, and called it "Miller." This memoir could not be more gracefully concluded than by transcribing

An act to appropriate a sum of money to erect a monument in honor of Hon. A. J. Miller, deceased.

Whereas, It is a time-honored custom to provide for a suitable monument to the memory of our deceased associates and to mark the place of their interment, and whereas, in the decease of our late friend and associate, the Hon. Andrew J. Miller, Senator from the county of Richmond, the General Assembly of the State of Georgia has lost one of its most

* See Pamphlet Laws, compiled by John W. Duncan, Esq., p. 114.
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faithful, efficient, and gifted members,—one whose services as a legislator and qualities as a man must leave their fixed impression upon the history of this State and the hearts of his countrymen,—

Therefore, this General Assembly do hereby enact, That the sum of two hundred dollars be, and is hereby, appropriated for the erection of a suitable monument of Georgia marble to mark the burial-place of the Honorable Andrew J. Miller, the Senator from the county of Richmond, having such inscription commemorative of the services of the deceased as may be ordered by the Honorable John Milledge and James Gardner, Esq.

Approved, March 3, 1856.

XXIV.

THOMAS D. MITCHELL.

THE gentleman whose brief career is under notice was born in Laurens district, South Carolina, in the year 1793. His father, William M. Mitchell, removed from Virginia prior to the Revolution. On the score of birth nothing more is necessary to be stated, as no claim is set up on the ground of distinguished ancestry.

THOMAS D. MITCHELL became an orphan at a tender age. His education was respectable in the English branches,—nothing more. When about eighteen years of age, he came to Georgia and taught school in Montgomery county. On attaining the age of twenty-one, he returned to Carolina and obtained his small patrimony of about one thousand dollars. By no means provident, and being very liberal among his friends, he was soon relieved of his money. This brought him to school-teaching again, which he pursued a while in Abbeville district. Not satisfied, and wishing to improve his talents and condition, he visited Columbia during the session of the Legislature in 1818, and there formed the acquaintance of the Hon. Joel R. Poinsett, through whose influence he took charge of the English department of the academy, affording satisfaction to all concerned.

While residing in Columbia, he employed his intervals of leisure in reading law under the direction of Col. Blanding, until the year 1820, when he again came to Georgia, and completed his legal studies in the office of Eli S. Shorter, Esq., at Eatonton. In the course of a few months, he applied for an examination in open

court, which proving satisfactory, he was licensed to practise law, and for a short time located in Sandersville. Not being pleased with the prospect of business, he removed to Hartford in 1821, where he opened an office and continued to practise in Pulaski, and in the neighboring counties, until his death.

Owing to some difficulty on the circuit, Mr. Mitchell received a challenge from the late Robert Augustus Beall, Esquire. In March, 1825, a hostile meeting took place between them, at Hamburg, South Carolina, and a couple of shots were exchanged without effect, when Col. Pace interposed, at the solicitation of all persons present, (except the immediate friends of the parties,) and a reconciliation was effected honorable to both gentlemen, who shook hands on the field. John P. Booth, Esq.,* was the acting friend of Mr. Mitchell on the occasion.

In politics Mr. Mitchell was a Clark man, and was elected by the Legislature, in 1825, Solicitor-General of the Southern circuit, receiving the commission of which a copy is here given:—

GEORGIA.—By his Excellency George M. Troup, Governor and Commander-in-chief of the Army and Navy of this State, and of the Militia thereof;

To THOMAS D. MITCHELL, Esquire,—greeting:

Whereas, the General Assembly of the State aforesaid did, by joint ballot of both branches thereof, on the twelfth day of November instant, confiding in the patriotism, judgment, abilities, and good conduct of you, the said Thomas D. Mitchell, elect you Solicitor-General of the Southern District of the State aforesaid:

These are therefore, in virtue of said election, to authorize and empower you, the said Thomas D. Mitchell, to have, hold, exercise, and enjoy the said office of Solicitor-General, together with all and singular the rights, fees, profits, privileges, and emoluments thereto belonging or in any wise appertaining; to act, plead, implead, sue, and prosecute all and every person or persons whatsoever, which now owe, and shall or may be due and in arrear to, the said State on any account whatsoever, and to prosecute all matters, criminal as well as civil, wherever the said State may be interested,—giving and hereby granting to you, the said Thomas D. Mitchell, full power and authority to act in the premises as Solicitor-General aforesaid. This commission to be and continue in force for the term of three years from the date of your said appointment.

Given under my hand and the great seal of the State, at the State-House in Milledgeville, this twelfth day of November, eighteen hundred and twenty-five, and of the Independence of the United States of America the fiftieth.

By the Governor:

G. M. TROUP.

E. HAMILTON,

Secretary of State.

* Afterward removed to Alabama, where he was elected a major-general of militia, and judge of the circuit court.

The duties of the office Mr. Mitchell discharged with marked energy. True, he was not skilled in criminal pleading; but what he lacked in formality and neatness in his official papers he made up by ingenuity and zeal in defending them against exceptions when assailed by the opposing counsel. He was not permitted to gain experience in his office; for he had organized and waited upon but two or three grand juries, when his untimely death deprived the State of a bold and vigorous prosecuting officer.

Unfortunately, some comments made by Dr. Baber,* who attended as the surgeon of Maj. Beall at Hamburg, called forth a public card from Mr. Mitchell, which gave offence to Dr. Baber, who thereupon invited Mr. Mitchell to the field. The challenge was accepted; and rifles, at ten paces, were the weapons selected by the party having the right to name them. The parties met at Hamburg, in March, 1826; and, on the second fire, Mr. Mitchell was mortally wounded,—being shot through the lungs,—and instantly expired.

The qualities of Mr. Mitchell may be thus summed up. He was exceedingly jealous of his reputation for courage, had an exalted sense of what was truly great in mankind, and a sincere contempt for trifles. In person he was rather homely,—even repulsive at first view, from his stern and haughty bearing, which instantly relaxed upon acquaintance. His hair was sandy, and stood like porcupine-quills, features rough, and his whole appearance the very reverse of *effeminate beauty*. He was somewhat dictatorial and rash in controversy, and was not much inclined to soothe where he had offended. Yet he would value an opponent with generous admiration where talent of a high order manifested itself. His attachments were for bold, energetic men of action who proceeded to their objects regardless of difficulty. At the head of a troop he would have charged with the impetuosity of Marshal Murat, or in council have executed a traitor with the composure of Gen. Harney. He possessed a strong voice,—terrible in passion, which usually made his efforts at the bar talked about and remembered. This

* Dr. Ambrose Baber was afterward a Senator in the Georgia Legislature, where his abilities shone conspicuously as Chairman of the Committee on Education. He was appointed by President Harrison, in 1841, *chargé d'affaires* to the Government of Sardinia. He was eminent in his profession, irritable and eccentric, but of untarnished honor. A patient having refused to take a dose of cyanide of potassium, Dr. B. swallowed it to convince him of its harmless character, and in a few minutes was a corpse! A misprint in the Formula occasioned this fatal mistake, March 1, 1846. A handsome monument in Rose Hill Cemetery, near Macon, has been erected to his memory by the Masonic brotherhood. See "Biographical Sketch" of Dr. Baber, by Dr. C. B. Nottingham, p. 5.

was not always the case, however. He reserved his best thunder for suitable occasions, so that the blaze which he kindled was no artificial lightning, but the genuine flash, which scathed as it fell. Withal, he had a general bitterness in his composition, which had been increased, if not wholly generated, by the hardships of his youth, when his ambition needed only wealth, and the influence it secures, to enable him to reach the pinnacle of his desires. He could not bring himself down to the harsh level of things,—to the contracted, selfish ideas and sordid schemes of men as exhibited in their daily conduct. In his cases he was diligent enough; but his preparation overshot the mark, and he continually longed for a trial where the character of the parties and the importance of the issue could really interest him and call forth his slumbering faculties. That opportunity, perhaps, was never afforded just as he would have it: therefore his mental powers were never brought into action with his soul fully aroused. In this respect, his experience has been that of thousands of other young, ardent, restless minds, which have flitted in the legal drama for a season, and then disappeared, broken in hope and conscious of the vanity and perils of ambition.

The character of Mr. Mitchell is before the reader, appealing to his sympathy and respect for one who perished, in the thirty-third year of his age, a victim to the code of honor. He was never married; and the only relative within the knowledge of the author is Dr. Isaac W. Mitchell, his brother, who attended him on the field as surgeon when no professional skill could avail to preserve life. Dr. Mitchell resides in Thomas county, where he has amassed a very large fortune.

XXV.

ROBERT RAYMOND REID.

AMONG the accomplished and elegant men who have filled public situations in Georgia, ROBERT RAYMOND REID stood pre-eminent in his day. He was born in Prince William's parish, in the State of South Carolina, on the 8th day of September, 1789. At the age of nine years he was sent to school at Beaufort, where he was rudely treated by his school-mates, and neglected by the individuals who had charge of him at that tender age, away from his parents. His constitution was delicate, and he had more the appearance of a girl than that of a boy,—a fact which gained him no protection from the tyranny of his comrades, who manifested their contempt for his effeminate person.

Referring to this period, and to other incidental matters, in his diary of January 19, 1828, Judge REID says:—

I was at last, after acquiring the character of a dull, lazy, and unprincipled child, taken home. My vices forsook me, and my joys returned. Let those who have children take care how they send them forth at a too early age to an unfeeling world! I was again with my mother, and again, in reading, writing,—thinking *rapturously*,—looking at her benign face, listening to her voice, and imbibing her instructions, I was happy,—too happy!

About a year after, I was sent to Savannah, in Georgia, to the care of an aunt; and there I was as miserable as before. The boys imposed upon me; my cousins cheated and scorned me; my aunt and uncle neglected and starved me. After some time, I returned to my beloved home. I had no reputation for genius except at home. There I *spoke* to the admiration of my parents, and *wrote* both prose and poetry which they esteemed prodigiously fine. I also had a turn for drawing, with which my mother was delighted. After a twelve-month passed in my heaven of home, I was taken by my father to Augusta. The scene was changed. I met kind-hearted boys, indulgent and friendly teachers, and kind friends. Among the first, James McLaws, always my friend, and afterward my brother-in-law; John Powell, a fine lad, the victim of disease too soon. . . . My heart, which had always loved something or other,—now a boy and now a girl,—formed a strong attachment to —, but a stronger one for —. I never loved any being, except my mother, as well as I did —. We were at dancing-school together; and, though she never acknowledged her affection, and I did not declare my own, we both well knew how dear we were to each other. . . .

To return: my mother died, and I received the heart-rending news at Augusta. Great Father of mercies! what were my sufferings those who

saw my agony alone can tell. I sat sometimes looking at the moon with streaming eyes, remembering the moments we had passed together by moonlight, and recalling all my poor mother's sorrows, her virtues, her voice, and her words. At other times, when all was still around me and my companions were asleep, I have sobbed upon my pillow and drenched it in tears. My studious habits were abandoned, and an all-absorbing grief possessed me. I determined to leave school; and, an opportunity offering, I went home. . . .

My poor mother's late residence was a desert; but I walked about the garden, through her chamber, sat in her chair, and bewailed her with a sorrow most poignant. O my beloved parent, dost thou inhabit other regions, and can it be that thou forgettest thy erring and unhappy and *still helpless son*? On thy death-bed thou didst caress a little butterfly, fancying that my spirit had taken a favorite and lovely form to commune with thine in its darkest hour; and now I sometimes think, when a butterfly comes to me fluttering around the candle at which I read, settling on my sleeve, or crosses my evening walk, that thou hast not forgot, but art still near me. O loved long and ever, if my thoughts can be known to thee, and if thou hast power to assist me, yield me thine aid; take sometimes the place of my guardian spirit, and be ever near me; and, oh, implore thy God and my God to forgive my follies and to grant me strength to bear up against the ills of life and to overcome the envy and malice of my enemies!

My father soon sent me back to school. But my nature seemed to have undergone a radical change: it had, in its deep grief, approached a boundary beyond which all was wildness and folly. I no longer thought or studied: there was no one now on earth whose approbation I cared for, whose encouragement was valuable to me. My only aim was to stifle reflection and to "conquer my bosom's sadness" by noisy mirth. I partook in the sports of the school and forsook my books. It is true, I was more the favorite of my school-fellows; but all piety, sincerity, pride—in a word, my day of happiness—was completely overcast.

At length I left Augusta, with a tolerable supply of Latin and Greek; and, after some months passed with my sister, whom I loved affectionately, I went to Columbia, and was entered on the books of the college in the Freshman class. It was intended I should take a place in the Sophomore; but Doctor Maxcy deemed me too little skilled in scholarship to put me there. A new scene now opened upon me. I doffed my ruffled shirts, put on cravats, shaved my beard, (and in one of my *first efforts* in this way had nearly cut off my nose,) strutted consequentially, and was a man! Being very effeminate, I avoided all broils and disputes as far as natural vivacity and heedlessness permitted. I frequented the company of ladies, of which I was very fond, and, indeed, never saw a woman without experiencing a thrill of delight.

The college had just commenced: there was no apparatus, no library, but one Senior and four Sophomores, and a host of Freshmen. I was a better scholar than any in the Freshman class, and was often resorted to by my classmates to construe their lessons and to assist them to prepare for recitations. I no longer studied: there was no necessity for it. Ladies' company, poetry, and novels, occupied my time. I had read so many romances that the stories were all jumbled together in my memory, and it was impossible for me to understand a graver work. I remember to have read Ferguson's *Rome* without any profit whatever. I could not com-

prehend a great part of the history, and what I did understand I did not recollect. Whence arose this defect of memory? Was it because my mind was crowded to overflowing with the incidents of works of fiction, and there was no room for any thing else? Was it that in reading I was wont to pursue the main thread of the story by glancing my eye over the page before me, without taking in the language on the minor incidents? Let those who wish to derive advantage from reading beware of a careless habit!

My frankness, benevolence, and lively imagination soon procured me friends. Among them was Anderson Crenshaw,* the Senior, who was an excellent man, and, as I then thought, learned beyond measure. He afterward was deranged at college, but recovered, and graduated. He became a lawyer; but I do not know that he was ever distinguished. George Davis was another collegian whom I loved: he had a genius equalled by few, and a kindness of heart as remarkable as it was rare. Poor fellow! he died early. Had he longer lived, he must have occupied a large space in the world's eye. Another person to whom I was attached was Joseph Lowry, as pure a being as ever lived. He is now a preacher of God's gospel; and, if any one goes to heaven, he will. William Harper, the present Chancellor of South Carolina, was also my friend. He was a fine scholar and profound reasoner; also a good poet, though I knew him once to steal some verses and to palm them on us as his own.

This account brings him to manhood. With whom he read law, or at what precise time he was admitted to the bar, has not been ascertained for this memoir. That he was industrious and regarded as a rising youth may be inferred from the circumstance that he was selected to deliver a public address at Augusta, in 1808, while in his nineteenth year. The author has procured the original manuscript, from which he has copied several paragraphs, showing the solid order of Mr. Reid's abilities and the maturity of his style before he had ceased to be a minor. It is thus entitled:—

An Oration on the 16th of January,—the birthday of Doctor BENJAMIN FRANKLIN and anniversary of the Savannah River Literary Association,—1808.

(Extract.)

In 1744, the British possessions in North America, increasing in wisdom and strength, began to perceive their connection with Great Britain to be maintained by the latter wholly on the ground of interest. The golden harvest annually reaped in the Colonies was but an incitement to gathering more on each returning year. Engrossing our commerce, and imposing theirs upon us, under the semblance of maternal friendship, they were draining our pockets and exporting luxuries into our country in order to enervate our hardy sons, to create in them an increasing ardor for foreign superfluities, and finally render them dependent, without a wish or power of redress.

* Removed to Alabama, and successively held the offices of Circuit Judge and Associate Justice of the Supreme Court, and died one of the Chancellors of that State, about the year 1845.—M.

The Proprietors of certain States were unwilling to recognise the right of *general taxation*; and, while the honest farmer paid his proportion, the lands of his master were deemed hallowed and exempt from contributing their share to the support of a Government which was daily preserving them from French inroads and savage conflagration. To oppose this unjustifiable privilege, Benjamin Franklin first forsook the private walks of life. His soaring mind perceived the dangers awaiting his country from the encouragement or even permission of such measures. Breathing the spirit of liberty, he stood up boldly against the chicanery of party and intrigue of Proprietary influence. He insisted that mankind were equal by birth; that Americans were not slaves, and it was neither their duty or inclination to bend in homage to a tyrant's rod of iron, or bless the hand inflicting the galling wound; that no moral or physical right excluded the Proprietors from joining the landholder in the expenses demanded by the public.

He spoke, and conviction followed his words. He reasoned, and sophistry declined the contest. His periods were not fraught with that specious eloquence which characterized a Henry, or the vehemence of a Randolph; but the energy of a Madison, the philosophy of Jefferson, and the zealous truth of Washington were stamped upon them. It was in vain. The hearts of the citizens always beat responsive to sentiments of freedom and equality; but their governors, in the service of corrupted Englishmen, hardened to the call of justice, were still determined to rule with a high hand and persist in their diabolical pretensions.

Such was the situation of the country when the encroachments of the French and Indians on our boundaries spread terror and alarm far and wide. Washington arose, like the moon from a misty cloud, like the sun from the morning vapor, and, gathering the rugged children of the mountains, sought the enemy on the cold borders of the Monongahela. His patriotism and firmness converted the unfavorable prospects of total defeat into almost a victory; and he returned with stainless and unfaded laurels from Fort Necessity. During these times of tumult Franklin was not inactive. Seated in the councils of wisdom, he formed plans for effective resistance. The consternation which prevailed on this side the Atlantic was quickly wafted to Great Britain, and the ill-fated Braddock was deputed to terminate the contest. Unacquainted with the wiles of the crafty savage with whom he had to deal, and despising the modest counsels of our gallant Washington, he fell into an ambuscade of French and Indians, and lost his own life, together with the lives of the flower of his army. Gloom and despair hung upon the battle! The scalping-knife glittered in the evening sun; the poisoned arrow whistled through the air! The groans of the dying Braddock, mingled with the war-whoop and the execrations of the French, added new horror to the last moments of the expiring soldier.

But Washington came forth in his strength, calm as the breast of the lake when the loud wind is laid. Cool and collected, he drew the residue of the corps from the scene of carnage, and, by a timely and well-conducted retreat, formed a junction with the rear. Unable to prosecute a contest which had become so unequal, the forces were obliged to return, first setting fire to one hundred and fifty baggage-wagons which the patriotic exertions of Franklin had procured for the expedition, and for the return of which he had bound himself in severe penalties. Undismayed, however, by these unfortunate events, that hero [sage] proposed in the House

of Delegates the establishment of a militia, which was accordingly carried into effect, and himself appointed colonel of a regiment of twelve hundred men, destined to defend the Northwestern frontier. He left the shades of science and the school of wisdom to take charge of this important post; but the Assembly of Pennsylvania experienced the loss of their able counsellor in a manner so signal, that he was recalled, again to illuminate that body with the splendor of his abilities,—a splendor not transient as the meteor which blazes and is gone, but steady and refulgent as yon bright orb of day which scatters life and vigor from utmost Thule to the Southern Pole.

Expensive as the defence of the Colonies was to the mother-country, it might easily have been avoided by placing muskets in the hands of Americans and teaching them to defend themselves. This, however, would have proved a ruinous policy: it would have been adding the means of emancipation to the knowledge of their situation, which already seemed to have impressed them deeply, as was but too plainly evinced in their spirited addresses to their governors on the subject of *general taxation*. These complaints, though trite and hackneyed, were not the less interesting to the people; and, in 1757, Franklin was appointed agent for Pennsylvania, to beseech redress at the foot of the throne. Attended by the benisons of his countrymen, this able statesman embarked, and arrived at London, where he laid before the Proprietors the inexpediency and even impossibility of infringing on the rights of Americans. He exploded the transatlantic idea that human nature was degenerate on the Western continent, and represented his countrymen as breathing the air of liberty, tilling the soil of freedom, and determined never to bend their necks to the buskined foot of oppression.

They scarcely listened to him with patience, and treated him as the representative of bondmen. It was now that, in the most moving and irresistible language, he preferred the injuries of his country to the ear of majesty. Truth and justice will prevail. Even amid the corrupted purlieus of a British court men were found more attached to principles of right, however abstract and disguised, than to the open practice of wrong in an unprincipled Parliament and intriguing cabinet. The Proprietors, discovering the opposition greater than they had been aware, consented to a compromise, and finally agreed that their lands should be equally subject to the payment of taxes with those of the inhabitants. Having compassed this important object of his mission, Franklin received from all quarters congratulations and applause.

In 1811, Mr. Reid married Miss Anna Margaretta McLaws, with whom he lived in great happiness until her death, on 7th September, 1825. She left him five children,—Janet, James W. E., Rosalie, Florida Forsyth, and Robert Raymond. The eldest daughter married her cousin, Charles Black, who removed to Florida, where he died, leaving his young widow to take care of their two children, Rebecca and Charles, both of whom died young. Mrs. Black afterward intermarried with Captain James Graham, of the United States Army, but died before her father. James W. E. Reid was educated at the Naval School, Annapolis, Mary-

land, and became a midshipman. In 1839, he was placed in command of a national vessel, the "Sea-Gull," attached to Captain Wilkes's Exploring Expedition, and was lost in a gale off Cape Horn with every soul on board. His second daughter, Rosalie, died at the age of seventeen, and his third daughter, Florida Forsyth, married Lieut. F. L. Darcy, who is now a successful planter on the St. John's. Robert Raymond is a merchant at Palatka. In the extracts which will appear in the course of this narrative, most of these children are particularly mentioned.

Before commencing with the public life of Judge Reid, it may be in order to notice his second marriage, on the 8th of May, 1829, with Miss Elizabeth Napier Delphia Virginia Randolph, of Columbia county. She was a lady of commanding beauty and superior accomplishments; but death, on the 22d of January, 1831, removed her from husband and friends. This was a severe blow to Judge Reid. He never fully recovered from it, as will be seen in passages of his diary.

In 1813, we find Mr. Reid playing the orator, on the 4th of July, at Augusta. His address was published in pamphlet form, at the request of the citizens. A brief extract is here given:—

The British maxim, "Once a subject, always a subject," is counter to American policy,—to the dictates of reason. If a man, influenced by chance or preference, leave his native, peaceful land, he has surely the right to locate himself where he pleases, and to aid and assist that Government where he finds support and protection. In the right of naturalization we open to the oppressed of all nations a refuge and asylum. The Russian forsakes his despotio government and wastes of snow. The Frenchman leaves his distracted country and blushing vineyards. The Polanders weeps over his partitioned state, and bids the forests of Lithuania and the towers of Warsaw farewell, with a sigh. The Irishman escapes his impoverished country, while the tear glitters in his eye and "Erin go bragh" lingers on his tongue. The Scotchman casts a last long lingering look on that

"Land of broom-heath and shaggy wood,
Land of the mountain and the flood,
Land of his sires."

The Briton flies the complicated imposition of taxes and his enamelled meadows to retire to the bosom of America, where a mild government will protect their rights, where friends wait to receive them, where the endearing joys of home shall again return. In vain do we extend the hand of friendship to our unfortunate brethren if Great Britain, with imperious tone, interpose her command that we make not citizens of her subjects.

* * * * *

The late changes made by the President in the officers of departments under his control, and the distinguished characters who command in our

diligent attention to the duties of his station, and particularly for his determined support of good order during the present term. And we respectfully request that his Honor's charge to us, together with these presentments, may be published.

From the highest judicial dignity then known in Georgia, Judge Reid was next elected a Representative in Congress, in 1818, and re-elected in 1820, both of which terms he served with usefulness to his constituents and reputation to himself. The author has before him a pamphlet copy of the speech delivered by Judge Reid on the Missouri question, which so fully anticipates the controversy which has since grown out of the action of Congress in regard to slavery in the Territories, that he makes no apology for incorporating the entire speech in this memoir, as an act of justice :—

SPEECH OF MR. REID, OF GEORGIA, ON THE RESTRICTION OF SLAVERY
IN MISSOURI.

*Delivered in the House of Representatives of the United States,
January 28, 1820.*

Mr. REID said that this was a question deeply interesting to that quarter of the Union whence he had the honor to come, was the only apology he urged for offering his opinions to the committee.

The subject (he continued) is said to be delicate and embarrassing. It is so; and particularly in one point of view. The sentiments to which the heat and ardor of debate give expression will not expire here, like the broken echoes of your hall! They will penetrate to the remotest corners of the nation, and may make an impression upon the black population of the South, as fatal in its effects to the slave as mischievous to our citizens. This is not mere idle surmise. In a professional capacity, I was recently concerned for several unhappy beings who were tried and convicted of a violation of the laws by attempted insurrection. They had held conversations, as the testimony developed, with certain *itinerant traders*, who not only poisoned their minds, but incited them to rebellion by proffered assistance. Such influence have the opinions of even the most depraved and ignorant white men upon this unfortunate race of people! But the subject is neither delicate or embarrassing, as it is considered to imply reproach, or a high offence against the moral law,—the violation of the liberty of our fellow-man. Such imputations

“pass by us
As the idle wind, which we respect not.”

They are “barbless arrows shot from bows unstrung!” The slave-holding States have not brought this calamity upon themselves. They have not voluntarily assumed this burden. It was fastened upon them by the mother-country, notwithstanding the most earnest entreaties and expostulations. And, if gentlemen were well acquainted with the true state of slavery in the South, (I speak particularly of Georgia, for my information extends little farther,) I am very sure their understandings would acquit us of the charges which their imaginations prefer.

An honorable gentleman from Virginia (Mr. Smyth) remarked yesterday, incidentally, that the debate of the last session upon this subject

occasioned Georgia to interdict emancipation by an act of her Legislature. The honorable gentleman has been misinformed. The act of 1818, to which he has allusion, was designed more completely to carry into effect the provisions of a law prescribing the manner of manumitting, and which had been enacted several years before. It may be proper to remark that the discussion of the bill to admit Missouri had its commencement at the last Congress, some time after the adjournment of the Georgia Legislature. Certain it is that the statute-book of that State contains no law by which it is declared that slaves cannot be made free.

Sir, the slaves of the South are held to a service which, unlike that of the ancient villein, is certain and moderate. They are well supplied with food and raiment. They are "content, and careless of to-morrow's fare." The lights of our religion shine as well for them as for their masters; and their rights of personal security, guaranteed by the Constitution and the laws, are vigilantly protected by the courts. It is true, they are often made subject to wanton acts of tyranny; but this is not their peculiar misfortune. For, search the catalogue of crimes, and you will find that man—the tyrant—is continually preying upon his fellow-man; that there are as many white as black victims to the vengeful passions and the lust of power! Believe me, sir, I am not the panegyrist of slavery. It is an unnatural state,—a dark cloud which obscures half the lustre of our free institutions! But it is a fixed evil, which we can only alleviate. Are we called upon to emancipate our slaves? I answer, their welfare—the safety of our citizens—forbid it. Can we incorporate them with us, and make them and us one people? The prejudices of the North and of the South rise up in equal strength against such a measure; and even those who clamor most loudly for the sublime doctrines of your Declaration of Independence, who shout in your ears, "All men are by nature equal!" would turn with abhorrence and disgust from a parti-colored progeny! Shall we then be blamed for a state of things to which we are obliged to submit? Would it be fair, would it be manly, would it be generous, would it be just, to offer contumely and contempt to the unfortunate man who wears a cancer in his bosom, because he will not submit to cauterization at the hazard of his existence? For my own part, surrounded by slavery from my cradle to the present moment, I yet

"Hate the touch of servile hands;
I loathe the slaves who cringe around;"

and I would hail that day as the most glorious in its dawning which should behold, with safety to themselves and our citizens, the black population of the United States placed upon the high eminence of equal rights and clothed in the privileges and immunities of American citizens. But this is a dream of philanthropy which can never be fulfilled; and whoever shall act, in this country, upon such wild theories, shall cease to be a benefactor, and become a destroyer of the human family.

It is said, however, to be high time to check the progress of this evil, and that this may best be done by inhibiting slavery beyond the Mississippi, and particularly in Missouri, which prays to be admitted as a State into the Union. It is important to consider if this project be consistent with the Constitution of the United States. The States formed the Constitution, in the capacity of sovereign and independent States; and the Constitution is the instrument by which they conveyed certain powers to a General Government. This is evident, not only from the nature of the

Government formed, and in every line of the Constitution, but it is a doctrine distinctly asserted in the ninth and tenth articles of the amendments:—"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people;" and, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Hence it will follow that the several States retain every power not delegated by the Constitution to the General Government; or, in other words, that in all unenumerated cases the several States are left in the full enjoyment of their sovereign and independent jurisdictions. The author of the *Federalist* (which work is admitted to contain a correct exposition of the principles of the Constitution) has said "that, with respect to the extent of its powers, the Government cannot be deemed national, since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects." In aid of this conclusion, if any thing were necessary to sustain it, it may be cited, as a maxim of sound national law, that sovereign States can only be deprived of their rights by voluntary consent or by conquest. It would seem, then, that the Constitution must be construed strictly whenever the rights of the State sovereignties become the subject of dispute; and strictly where the right of personal liberty, personal security, or private property are questioned.* Because the citizen of the United States is the citizen also of another independent Government, whose laws he is bound to obey, unless where this duty has been transferred to the General Government by the express words of the Constitution itself. If it were otherwise, we should find the United States continually engaged in a struggle with the States, to enforce the obedience of the citizen. Such contests, it is easy to perceive, would tarnish, if not destroy, the golden chain by which our federative Government is held together. They would lead to gradual usurpations of power, by which your Constitution would be made a dead letter and your republican institutions exist only in name. Proceeding upon these principles, let us endeavor to ascertain in what part of the Constitution that power is delegated which would authorize you to adopt the amendment proposed by the member from New York.

The grant of powers to the Congress is chiefly contained in the eighth section of the first article; and you will certainly not find therein any authority to inhibit slavery in any part of the Union, in any Territory, or in any State about to be admitted into the Union.

The ninth section commences with this clause:—"The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited prior to the year 1808, but a tax or duty may be imposed on such importation not exceeding ten dollars for each person." It may be said, very plausibly, that the words "migration" and "importation" are here used synonymously; but let us give to every word in the clause an appropriate meaning, and then we will see whether the word "migration" is the little source whence mighty effects of evil are to flow upon the country. Certainly the framers of the Constitution desired to destroy a traffic of all others the most cruel and iniquitous,—a trade stained by the blood and drenched in the tears of humanity! By inhibiting "the importation, after 1808, of such persons as any of the

* *Vide* Tucker's Blackstone.

States then existing thought proper to admit," it was intended to convey a power to prevent the introduction of Africans into the United States. By inhibiting the "migration," after 1808, of *such* persons,—for the Constitution, it appears to me, still refers to Africans, and I express this opinion with deference and humility,—may it not have been intended the more effectually to provide against evasions of the laws interdicting the importation of slaves? The object was to prevent the accumulation of this species of property. It was well known to the founders of our Government that so soon as the importation was declared to be illegal the slave-merchant would resort to every artifice which ingenuity and avarice could devise for the purpose of effecting a violation of the laws. Suppose him to place his slaves upon a foreign territory adjacent to the United States. They are permitted, or instructed, to pass the boundary, and when within our limits an associate in villany is ready to receive them. In the possession of this person they are found, and he is put upon his trial for importing contrary to law. He defends himself by proving an *alibi*,—by showing, as far as negative proof can show, that he had in no wise been concerned in the *importation*. But it is objected that the fact of possession, with the circumstances of language and complexion, will produce an inference of his guilt not to be mistaken. What then? Base as he is, will he not intrench and fortify himself by perjuries and subornations of perjury? Will he not make out a case by which it shall appear that the victims of his cupidity sought a protection which he could not withhold? that they *migrated*, and were not *imported*? What then is the effect of the United States statute, which only prohibits importation? The strict construction of a penal law will not permit it to reach the case. The result must be that the luckless Africans are left to the operation of the State laws, and in all probability sold as slaves,—thereby advancing the evil which the Legislature was endeavoring to destroy. May it not have been to guard against such frauds, shifts, and artifices that the word "migration" was inserted in the Constitution? But the meaning of this word is fixed and limited by the express words of the clause in which it occurs:—"The migration of all such persons as any of the States now existing think proper to admit." To what description of persons does the Constitution allude? But one of two answers can, it seems to me, be rationally returned to this question. The allusion is either to Africans, who were the proper subjects of the slave-trade, or white persons coming from foreign lands. If this be so, how can the Constitutional provision be so far wrested from its purpose as to be made to apply to the removal of slaves from one State to another, or to a Territory,—slaves, who are recognised as the objects of property by the Constitution itself? If the solemn covenant of our liberties can be thus abused, it is no longer to be esteemed oracular; or, if it resemble an oracle, it is only because its responses are involved in doubt and obscurity.

I find nothing more to afford even a colorable pretext for the proposed restriction until we come to these words:—"New States may be admitted into the Union." The single word "may" is supposed to be the depository of the power so anxiously sought; and, it is said, if Congress can admit a new State, the Constitution being silent as to the condition to be imposed, the State about to be admitted may be fastened with any condition not specially interdicted by the Constitution itself. This is a *non sequitur*. It is a conclusion most lame and impotent,—in direct hostility with the letter as well as the spirit of the Constitution. It is not enough that the

Constitution is silent to authorize the Congress to speak or to act; for Congress is the creature of the Constitution, and must look to it for open, declared, and positive direction. What the Constitution dictates is to be done, what it prohibits is to be avoided; but, when it is silent, Congress possesses not authority to direct citizens or States. These must then be controlled by their own independent Governments. Let it be remembered that the Constitution, being in derogation of State rights, must be construed strictly. This clause of the third section of the article, then, only allows to us the power to receive or to reject, without qualification or condition, a State making application to be admitted into the Union.

But there is a condition without which a State cannot be admitted into the Union; and it is to be found in the fourth section of the third article:—"The United States shall guarantee to every State in this Union a republican form of government." Now, "guarantee" means, if I at all understand the signification of words, "to undertake that certain stipulations shall be performed." These stipulations can only be found in the Constitutions of the States, where they must constitute a "republican form of government." If this be so, then, at the moment a new State is admitted the same guarantee which applies to the original States extends to her also. She must, consequently, have been in the possession of "a republican form of government" at the time of entering the Union; because it would be preposterous to imagine that to be guaranteed of which she was not possessed,—that to be secured to her which, in fact, had no existence. It results, then, that without "a republican form of government" a State cannot come into the Confederacy; and is not the necessity to possess it a *sine qua non*, or condition without which the new State cannot be admitted? Sir, this condition, being expressed, operates to the exclusion of every other. "*Expressio unius est exclusio alterius*" is a sound maxim both of common law and common sense.

But, it is objected, slavery is incompatible with that "republican form of government" which the State admitted must possess. We must receive words according to the intention of those who utter them. And we must give construction to the Constitution by considering all the parts of that instrument together. South Carolina and Georgia were slave-holding States at the time the Constitution was framed and adopted; and yet, in its eye, these were considered to possess republican forms of government. Besides, the right of the citizen to possess slaves is expressly recognised by the instrument of which we speak. I need scarcely advert to the second section of the first article, wherein the representation is determined; to the permission to import until a given period, in the ninth section of the first article; and to the second section of the second article, where the relations of master and servant are distinctly asserted. It is evident, then, that a state of domestic slavery was entirely out of view when the founders of the Confederation determined to "guarantee to the several States a republican form of government."

The Constitution of the United States is plain and simple. It requires no superiority of intellect to comprehend its dictates; it is addressed to every understanding; "he who runs may read." It is, then, a proof of the absence of all authority for the proposed measure, when its advocates, and some, too, of great names, fly from clause to section, and from section to article, without finding "rest for the sole of the foot;" without fixing or agreeing upon any one line, phrase, or sentence whence this power for which all contend may be brought into existence. And it is

perfectly natural that this effect should be produced. A search for the philosopher's stone might as soon be expected to end in certainty.

But it is argued that Congress has ever imposed restrictions upon new States, and no objection has been urged until this moment. If it be true that only one condition can constitutionally be imposed, it would seem that any other is null and void, and may be thrown off by the State at pleasure. And then this argument, the strength of which is in precedent, cannot avail. Uniformity of decision for hundreds of years cannot make that right which at first was wrong. If it were otherwise, in vain would science and the arts pursue their march toward perfection; in vain the constant progress of truth; in vain the new and bright lights which are daily finding their way to the human mind, like the rays of distant stars, which, passing onward from the creation of time, are said to be continually reaching our sphere. *Malus usus abolendus est*. When error appears, let her be detected and exposed, and let evil precepts be abolished.

It is true that the old Confederation, by the sixth section of the ordinance of 1787, inhibited slavery in the territory northwest of the Ohio, and that the States of Illinois, Ohio, and Indiana have been introduced into the Union under this restriction.

Sir, the ordinance of '87 had an origin perfectly worthy of the end it seems destined to accomplish. It had no authority in the articles of confederation which did not contemplate, with the exception of Canada, the acquisition of territory. It was in contradiction of the resolution of 1780, by which the States were allured to cede their unlocated lands to the General Government, upon the condition that these should constitute several States, to be admitted into the Union upon an equal footing with the original States. It is in fraud of the acts of cession by which the States conveyed territory in faith of the resolution of '80; and, when recognised by acts of Congress and applied to the States formed from the territory beyond the Ohio, it is in violation of the Constitution of the United States. So much for the efficacy of the precedent, which, although binding here, is not, it would seem, of obligation upon Ohio, Indiana, or Illinois, or, if you impose it, upon Missouri. It is not the force of your legal provisions which attaches the restrictive sixth article of the ordinance to the States I have mentioned. It is the moral sentiment of the inhabitants. Impose it upon Missouri, and she will indignantly throw off the yoke and laugh you to scorn! You will then discover that you have assumed a weapon that you cannot wield,—the bow of Ulysses, which all your efforts cannot bend. The open and voluntary exposure of your weakness will make you not only the object of derision at home, but a by-word among nations. Can there be a power in Congress to do that which the object of the power may rightfully destroy? Are the rights of Missouri and of the Union in opposition to each other? Can it be possible that Congress has authority to impose a restriction which Missouri, by an alteration of her Constitution, may abolish? Sir, the course we are pursuing reminds me of the urchin who, with great care and anxiety, constructs his card edifice, which the slightest touch may demolish, the gentlest breath dissolve.

But let us stand together upon the basis of precedent, and upon that ground you cannot extend this restriction to Missouri. You have imposed it upon the territory beyond the Ohio, but you have never applied it elsewhere. Tennessee, Vermont, Kentucky, Louisiana, Mississippi, and Ala-

bama have come into the Union without being required to submit to the condition inhibiting slavery; nay, whenever the ordinance of '87 has been applied to any of these States, the operation of the sixth article has been suspended or destroyed. According, then, to the uniform tenor of the precedent, let the States to be formed of the territory without the boundaries of the territory northwest of Ohio remain unrestricted, and in the enjoyment of the fulness of their rights.

Thus, it appears to me, the power you seek to assume is not to be found in the Constitution or to be derived from precedents. Shall it, then, without any known process of generation, spring spontaneously from your councils, like the armed Minerva from the brain of Jupiter? The goddess, sir, although of wisdom, was also the inventress of war; and the power of your creation, although extensive in its dimensions and ingenious in its organization, may produce the most terrible and deplorable effects. Assure yourselves, you have not authority to bind a State coming into the Union with a single hair. If you have, you may rivet a chain upon every limb, a fetter upon every joint! Where, then, I ask, is the independence of your State Governments? Do they not fall prostrate, debased, covered with sackcloth and crowned with ashes before the gigantic power of the Union? They will no longer, sir, resemble planets, moving in order around a solar centre, receiving and imparting lustre. They will dwindle to mere satellites, or, thrown from their orbits, they will wander "like stars condemned, the wrecks of worlds demolished."

The ordinance of '87 has been called, and is called in your laws, an irrevocable compact with the good people beyond the Ohio. Sir, there is a compact equally irrevocable,—as I think, more so,—which governs the destinies of the extensive region beyond the Mississippi. I mean the treaty of 1803, by which Louisiana was ceded to the United States. This is, indeed, a compact formed by two independent nations, parties able to contract. The ordinance of '87 was a mere legislative provision, by which you bound your vassal, who could not oppose your wishes, who was in your power, and subject to your authority. It possesses not the force and effect of a solemn treaty.

The third article of the treaty declares that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States."

How are the inhabitants to be "incorporated in the Union of the United States"? Certainly by admitting the territory to which they belong as a State or States into the Union "according to the principles of the Federal Constitution." I confess myself so dull as to be able to give no other construction to the words of the treaty. Argument is of none effect when it attempts to make that which is self-evident still more apparent. These inhabitants are to be placed, too, in a political situation in all respects equal with that of our own citizens. It follows, then, that citizens of the United States having the power, under the Constitution, to possess property in slaves, and to remove that property whithersoever they will, the check or limit upon this power being imposed only by the State sovereignties, the inhabitants of Louisiana cannot be fairly in possession of "all the rights, advantages, and immunities of citizens of the United States" unless they possess this also. The treaty of 1803 is the supreme law of the land, and must be obeyed. Obedience consists in admitting

Missouri, which is a part of the then territory of Louisiana, as a State, into the Union, upon the sole condition that she shall possess a republican form of government.

There are some, I understand, who think Congress has the power to impose this restriction upon the territory of the United States, although it cannot be forced upon a State at the moment of admission, and they find their text in the following words of the Constitution :—"Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory and other property belonging to the United States." Without stopping to inquire how far a provision excluding slavery comes within the meaning of "needful rules and regulations;" how far, under authority to make rules and regulations respecting the territory of the United States, Congress can make laws affecting the rights of property; how far the citizen of the South, who has an equal claim with his brother of the North to the lands on the west of the Mississippi, can be deprived of the constitutional privilege of enjoying his property in that country; it is enough for me that the treaty of 1803 interposes to prevent the enactment of any condition interfering with the liberty, religion, or property of the inhabitants of Louisiana. The article I have just quoted, after providing for the incorporation of the ceded territory into the Union, runs thus:—"And in the mean time they (the inhabitants) shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess." Now, slaves were property at the time of the ratification of the treaty, and therefore within its meaning. Giving to the words "in the mean time" the construction they would seem to demand, it must follow that, until the inhabitants are "incorporated in the Union according to the principles of the Federal Constitution," their right to possess this species of property is guaranteed by the treaty. It cannot be said to the slave-holder who becomes an inhabitant of Louisiana, "You shall leave your slaves behind you." His only and conclusive reply is in the words which I have read. He bids you preserve that good faith which the law, the dignity of which is settled by the Constitution, inculcates. He insists that, upon the instant he becomes an inhabitant of Louisiana, his right to his slaves is both recognised and sanctioned. He surely does not insist in vain, for all civilized governments respect, or affect to respect, the solemnity of their treaties. Can you refuse obedience to this after the high language which you have used toward the Spanish Court? If you do, even the gravity of the adored Ferdinand will relax into a smile, I dare not say of contempt, but certainly of distrust.

I beg leave to offer a few words upon the expediency of this amendment, and I declare myself at a loss to divine the motive which so ardently presses its enactment. It is said that humanity, a tender concern for the welfare both of the slave and his master, is the moving principle. And here I cannot refrain from repeating the words of a periodical writer as remarkable for his good taste as the justness of his sentiments:—"The usual mode," says he, "of making a bad measure palatable to a virtuous and well-disposed community is that of holding it up as conducing to some salutary end, by which the whole people are eventually to be greatly benefited. It is thus that every mischievous public measure is sheltered behind some pretext of public good." But it is a question which deserves consideration, whether, if slavery be confined to its present limits, the situation of the master or the slave, or both, will be made better. Will

not the increased number of slaves within a given space diminish the means of subsistence? Will not the number of masters diminish as the number of slaves increases? And what are the consequences? Extreme wretchedness, penury, and want to the slave; care, anxiety, imbecility, and servile war to the master. Then, indeed, will be produced what the advocates of this amendment so much deprecate,—tyranny, in all its wantonness, on one hand, despair and revenge on the other. At this moment the situation of the Southern slave is, in many respects, enviable. Adopt your restriction, and his fate will not be better than that of the mastiff, howling all day long from the kennel where his chains confine him. But let the dappled tide of population roll onwards to the West, raise no mound to interrupt its course, and the evil of which we on all sides so bitterly complain will have lost half its power to harm, by dispersion. Slaves, divided among many masters, will enjoy greater privileges and comforts than those who, cooped within a narrow sphere and under few owners, will be doomed to drag a long, heavy, and clanking chain through the span of their existence. Danger from insurrection will diminish; confidence will grow between the master and his servant; the one will no longer be considered as a mere beast of burden, the other as a remorseless despot, void of feeling and commiseration. In proportion as few slaves are possessed by the same individual will he look with less reluctance to the prospect of their ultimate liberation. Emancipations will become common; and who knows but that the Great Being, to whose mercies all men have an equal claim, may, in the fulness of his time, work a miracle in behalf of the trampled rights of human nature? Sir, humanity, unless I am egregiously deceived, disclaims those doctrines the practical result of which is to make the black man more wretched and the white man less safe. She turns, with shivering abhorrence, from the fetters which, while you affect to loosen, you clasp more firmly around the miserable African.

But let gentlemen beware! Assume the Mississippi as a boundary. Say that to the smiling Canaan beyond its waters no slave shall approach, and you give a new character to its inhabitants, totally distinct from that which shall belong to the people thronging on the east of your limit. You implant diversity of pursuits, hostility of feeling, envy, hatred, and bitter reproaches, which

“Shall grow to clubs and naked swords,
To murder and to death.”

If you remain inexorable, if you persist in refusing the humble, the decent, the reasonable prayer of Missouri, is there no danger that her resistance will rise in proportion to your oppression? Sir, the firebrand, which is even now cast into your society, will require blood—ay, and the blood of freemen—for its quenching. Your Union shall tremble, as under the force of an earthquake! While you incautiously pull down a constitutional barrier, you make way for the dark, and tumultuous, and overwhelming waters of desolation. “If you sow the winds, must you not reap the whirlwind?”

Soon after the close of his Congressional career Judge Reid was again elected to the bench of the Middle circuit, where he continued until the session of the Legislature in 1825. He was then succeeded by the Hon. William Schley, who belonged to the

Clark party. That year was memorable for the great contest between Gov. Troup and Gen. John Clark, who were candidates for the Executive, it being the first election of Governor by the people. The canvass was unusually bitter. Gov. Troup had triumphed over President Adams and his Cabinet in relation to the Old Treaty, under which the Creek lands were surveyed and distributed. The boldness with which he defended the rights of Georgia drew upon him the charge of "audacity," and he was reviled for every act of his administration. On the other hand, the blemishes of Gen. Clark were pointed out by the supporters of Troup in no very gentle terms. He was called a "tyrant," and a very ambitious man with but little merit to sustain his pretensions. The strife even extended to families, the members of which took opposite sides, and in too many instances unkind feelings were engendered which time failed to eradicate.

The first Monday in October, 1825, decided the contest. Out of 40,407 votes cast for Governor, Troup received 20,545, and Clark 19,862,—giving the former a majority of 683 votes. But the Clark party had the power in the Legislature, and most proscriptively did they exercise it. With the exception of Judge Wayne, not a single Troup man was retained on the bench. The following are the names of the judges elected and those who retired in 1825:—

DISTRICTS.	ELECTED.	RETIRED.
Eastern circuit.....	J. M. Wayne	
Middle "	William Schley.....	R. R. Reid.
Ocmulgee "	O. H. Kenan	A. B. Longstreet.
Western "	W. H. Underwood ..	A. S. Clayton.
Flint "	C. J. McDonald	Eli S. Shorter.
Southern "	Moses Fort	T. G. Holt.
Northern "	John M. Dooly.	

These seven were the only judicial circuits then existing. The solicitor-generals shared the same fate, in a party sense. This was the first time that such a spirit was permitted to dispose of qualifications for office on so broad a scale in Georgia. Since then, the precedent has been adhered to with equal tenacity by both political parties as they respectively prevailed at the ballot-box. No praise or censure is intended for either in thus standing by their friends. If it be a virtue or a fault, both share it alike.

Resuming the practice of his profession, Judge Reid appeared in many important causes in his own circuit, and occasionally at a distance, where the influence of his name commanded clients. He

was a polished speaker, fluent and graceful, a fit companion of Richard Henry Wilde, his fellow-townsmen and warm personal friend. The bar of the Middle circuit always maintained a high character for abilities and courtesy. Its members fostered a lofty social bearing, neither oppressive by cold dignity, nor yet so free as to encourage rude familiarity. It was the happy medium which secured respect and business on terms compatible with true fame. Of this school Judge Reid was a loyal disciple. His fine person attracted notice in any and every crowd. He was indeed a finished gentleman; and so instinctively was he such—his organization so sensitive and his heart so kind—that it would have been impossible for him to have been coarse in his manners without trampling his nature in the dust. From his boyhood he was gentle, and his poetic raptures moulded him into a frame which the shocks of adversity and ingratitude he was destined to experience never ceased to torture.

Judge Reid was selected to deliver an address on laying the corner-stone of the Augusta Masonic Hall, June, 1828, from which an extract is given, affording the best argument we have seen for excluding ladies from the Craft. The orator said:—

Again, it is objected that females are not received into Masonic meetings, and it is tauntingly asked, Can any institution from which woman is carefully excluded be free from evil? Our reply to this question might with propriety rest upon the usages of the world. Are women allowed to mingle in the ranks of battle, side by side and shoulder to shoulder with men? Are they invited to swell the tide of debate in the Senate-house? Does woman hasten to the polls at your elections or promulgate the holy doctrines from the sacred desk? And will valor be denied to the army and wisdom to the Senate because woman is not there? Will the elective franchise be deemed valueless, and instructions from the pulpit unholy, because woman does not participate in the one and is not a teacher of the other? Woman is as effectually shut out from the ministry of the gospel, from the exercise of some of the highest privileges known in a free country, from the learned and the military professions, as she is from the Lodges of Masonry; and we say to those eager to find fault with us in this matter, "Take the beam from your own eye before you point out the mote in ours." Extend all the advantages you enjoy to the other sex; make her education equal to yours; open to her the road to fame and renown; place her upon a level with you at home, and let her be your companion abroad; twine around her brows not only the crown of myrtle, but the bays of science and the laurels of victory; and when you have accomplished this,—all this,—then perhaps you may be justified in demanding for woman an admission into the chambers of Masonry.

But there is a reason to be found in the origin of Masonry which will at once show why women, according to the ancient and established rules of our Order, cannot be Masons. At first all masons were *operative*; that is to say, they were engaged in manual labor, to which the tenderness of woman was unadapted. Abundantly endowed with a capacity to com-

prehend the tenets of speculative Masonry, still, woman was not sufficiently robust to engage in those works about which Masons were then actively and industriously employed. Thus, to no want of respect and esteem, but to a regard for her weakness and a desire to promote her comfort and happiness, is to be ascribed that immemorial usage which confines to our own sex the performance of the rights of Free Masonry. It becomes me to add that Masons are pledged to the protection of woman, and that they owe to her admiration and gratitude. How could it be otherwise?



"The very first
Of human life must spring from woman's breast:
Your first small words were taught you from her lips,
Your first tears quenched by her, and your last sighs
Too often breathed out in a woman's hearing,
When men have shrunk from the ignoble care
Of watching the last hour!"

He, my friends, who deems lightly of woman cannot be a good and true man; and none but a good and true man can be a good Mason.

In February, 1827, Judge Reid was appointed to preside over the City Court of Augusta, and in November, 1829, was re-elected by the Legislature to the same office. In the early part of this memoir it is stated that in January, 1831, he lost his second wife, in less than two years after their marriage. By this calamity his fortunes and his mind suffered an eclipse. The day of happiness was gone. He loved his children, and endured life for their sakes,—not for any other attraction. His house was sad and a place of misery. The presence of old objects—even old friends—gave him pain, all reviving the memory of the past and his own desolation. To change the scene, his friends applied to President Jackson for an office, and in May, 1832, he received the following commission:—

Andrew Jackson, President of the United States of America, to all who shall see these presents,—greeting:

Know ye, that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert R. Reid, of Georgia, I have nominated, and, by and with the advice and consent of the Senate, do appoint him, Judge of the United States for the District of East Florida, and do authorize and empower him to execute and fulfil the duties of that office according to the Constitution and laws of the United States, and to have and to hold the said office with the powers, privileges, and emoluments to the same of right appertaining unto him, the said Robert R. Reid, for the term of four years from the day of the date hereof.

IN TESTIMONY WHEREOF, I have caused these letters to be made patent and the seal of the United States to be hereunto affixed. Given under my hand, at the city of Washington, the twenty-fourth day of May, A.D. 1832, and of the Independence of the United States of America the fifty-sixth.

ANDREW JACKSON.

By the President:

EDW. LIVINGSTON,

Secretary of State.

Before noticing his departure from Georgia to the "Land of Flowers," as Florida has been aptly styled, it may be proper to remark that, in the contest for Governor in 1829 between Major Joel Crawford and Mr. Gilmer, (both Troup men,) Judge Reid, who wrote freely for the political press in Augusta, espoused the cause of Maj. Crawford, and was replied to anonymously by the Hon. Eli S. Shorter, a friend of Mr. Gilmer. This circumstance gave rise to the following letter, which is here inserted, because it is highly creditable to the heart of its gifted author, and was accepted in the kindest spirit:—

DUBLIN, 9th October, 1829.

DEAR SIR:—The contest for Governor is now over. I have no disposition to *exult* at the success of Mr. Gilmer or the defeat of Mr. Crawford. The first has never done or attempted to do me an injury; but the latter has been for the last six years my *bitter* and *unfeeling* enemy. That I should have supported the one and opposed the other was natural.

In our newspaper-dispute *you* seemed to evidence toward me some deep feeling, and, I think, unjustly. This circumstance I much regret, for I have never, that I remember, lost any one opportunity of manifesting toward you the most friendly feelings. It has ever afforded me pleasure to further your views and to advance your interest; but, if a new state of relations is to exist between us, I can only regret the occurrence and submit to my destiny. I embarked in the support of Mr. Gilmer with a determination to bear him through; and that I should have turned your arguments and those of Mr. Crawford's other friends as much to the advantage of Mr. Gilmer as possible ought not to have excited your surprise or "indignation." Your belief, however, of my being at the bottom of the contest between G. and C. is wholly a mistake. I was not in Athens, and had *no part, directly or indirectly*, in putting up Mr. G., but was much pleased that he was put up.

In regard to Mr. Forsyth, I will take this occasion to say that I consider him a splendid man and eminently qualified for *any office*. I have never failed to support him in my whole life, when he has been a candidate for office; but, in candor, I must say that my feelings are somewhat wounded with him for the course which I *fear* he pursued in bringing out Mr. C.: but still I am unwilling to abandon him. Efforts have been made to get up opposition to him; but, as far as I know, in every instance it has been by *Clark men*. Before and since the first Monday in October, very strong appeals have been made *to me* from the same quarter to become his competitor; but in every instance I replied promptly,—first, that I considered it due to myself, my friends, and the community not to seek for as distinguished an office so soon after committing the great indiscretion in my private life that pushed me so near the brink of ruin; and, second, that I know Mr. F. to be infinitely my superior in point of ability, education, and experience, and I would not consent to be provided for at so great a sacrifice to the State. I have done all in my power, and shall continue to do so, to keep down every opposition to Mr. F., and trust I shall succeed.

I felt it due to *you* and to *myself* to make the foregoing remarks

They are submitted frankly and in a spirit of friendship. What I have done toward Mr. Forsyth has not been from fear of a *defeat*, and what I have said to you is not with the view of being in the end benefited myself. I wish my course to be distinctly understood by all for whose opinions I have any regard, and look with confidence to the result. This letter you will please to consider private and confidential; and, if you answer it, direct your letter to me at my residence.

Respectfully, &c.,
ELI S. SHORTER.

Hon. ROBERT RAYMOND REID.

This letter was found among the papers of Judge Reid which had been submitted by his family to the inspection of the author. It alludes to an "*indiscretion*" in the "private life" of Judge Shorter which is referred to in his memoir in this volume. The tone of the letter is manly, and shows both tact and frankness in healing a supposed breach between friends. Mr. Forsyth was elected to the United States Senate in 1829, and was no doubt instrumental in obtaining for Judge Reid the very honorable post in Florida to which he soon repaired.

Judge Reid was in the habit of keeping a private journal,—not continuously from year to year, or even from month to month; but he noted down daily or at leisure periods such reflections, objects, and events as he deemed of interest and opportunity allowed him to record. While on a late visit to St. Augustine, the author availed himself of the kind permission of Mrs. Reid to look over several paper volumes containing entries of this character in the handwriting of Judge Reid, with liberty to copy such portions as might be of service in his memoir. When this labor of transcription was going on, the author was often at a loss what passages to select. Many of them related to his family and personal affairs, but all in such garb of propriety as might meet the public eye with advantage to his memory.

Believing that the composition of Judge Reid will please his readers far better than his own poor style, the author submits very copious extracts from these private journals, throwing light on men and things, blended with amusement equal to any similar record he has ever seen in print. It begins in 1825, when he was thirty-six years of age, and concludes in 1841, a few weeks previous to his death,—embracing the golden period of his life. He had religious difficulties, and finally settled in the Unitarian faith. It will be seen that he was habitually devotional, and tried to keep his heart and actions upright. Gloom often gathered over his spirit. He needed a Friend to enlighten him,—the very Friend

whom he rejected. His struggles were those of an exalted nature. Who can read his emotions, as they gush from the heart, without admiring his genius and sympathizing in his trials?

No attempt will be made to arrange the extracts in any order except that of time. They are given word for word as they came from his pen, and will not be disturbed by explanatory matter until the end. The extracts here given form only a small portion of the contents of the journal or diary.

From the Private Journal of the Hon. Robert Raymond Reid.

1825, June 12.—What a beautiful composition is the 35th Psalm of David! Surely never man more trusted in God, whether for good to himself or evil to his enemies! The royal prophet did not love the latter, but prayed fervently for their destruction.

A Sunday passed at home in reading, sleeping, and writing.

A visit from a good Baptist preacher keeps me employed for the evening. He lectures on regeneration, which I cannot comprehend.

June 15.—In much perplexity: my family sick, my heart sick, without friends, and surrounded by troubles. May God help me! for my way is covered with darkness, and I am groping and blundering like a midnight wanderer.

I resolve so to frame my conversation in presence of my children as to inform their minds and feelings.

The court almost over, and I exhausted and harassed. I should be always employed, kind and civil to all, always self-possessed, never forget my judicial character.

June 30.—I would be a poet, a kind father and husband, a faithful friend, a good man, an upright judge, and free from debt.

July 28.—I am full of faults, follies, and distresses. I deserve *all*, and more than I receive. I am undeserving the kindness of Heaven. May God have mercy and enable me to go through with the annexed plan for the month of August. [Hours for labor and recreation stated.]

Aug. 6.—A day badly spent. I wish I could arrange my debts. I then should have leisure for better things.

Aug. 9.—There are few good novel-writers; but, if any man would write *faithfully* the history of his life and feelings, he would give to the world that which would be considered an excellent romance.

Aug. 16.—Respect yourself, or others will not respect you. Think before you speak. Keep your servants at a distance, and admit their advances with caution. Endeavor to occupy your older children, and your younger also. Teach them never to repeat after servants, and not to be familiar. Be kind and just to your family and friends, and let the world say what it will. Lay down rules of temperance, and keep within them.

Aug. 30.—Our young men come from college into the world as men go to a theatre,—mere spectators, not fitted for the business or action of the stage. Studies should be varied, and the history, biography, travels, &c. which have relation to each branch should, by some judicious hand, be pointed out to the learner. The idea of *shifting* studies is not modern: indeed, it has its root in the nature of man, which delights in novelty and is fatigued with a constant engagedness in one pursuit. Logic detects false arguments. Religion and morals should prove the deformity, re-

proach, and misery of a deviation from their precepts. Men must be kept in the right path by hope of reward and the fear of punishment. Every citizen of America is a *secondary legislator*, and should therefore acquaint himself with the Constitution, laws, and policy of the country as far as possible. It is never too late to begin the work of improvement, for we may lengthen life by *truly* enjoying the years that are to come. Speak neither too loud nor too low, but preserve the key of your voice in a happy medium. You will never speak well without self-possession and a knowledge of your subject. In reading statutes, deeds, &c., the voice may be uniform and the utterance quick with advantage. Be not too slow in reading or speaking; get your idea, and out with it. But speak not at all if you have no idea. If your thoughts are good, a little practice will give you a good style. Begin your speeches in a low voice, and conform your manner and your subsequent tones to your subject. Attend carefully to the style and substance of every thing you read, and you will learn to read well. Stops vary in different writers, and afford no certain rule for the modifications of the voice. Emphasis must be controlled by attention to the sense of what you read. A man should form for himself *the ideal of a character*, and come up to it as nearly as possible. Literature has lost something by printing the *names of things without capitals*. What are necessary to an orator? Sound judgment, good imagination, distinct voice, forcible expression, imposing or feeling or appropriate manner.

Thoughts on Money.—Men in the pursuit of happiness endeavor to procure money, because that obtains those things by which human happiness is supposed to be promoted. It often happens that the habitual attention to the means entirely absorbs the end; that is to say, men, from constantly endeavoring to acquire money, lose sight of the objects for which they were anxious to get it: they acquire money not with the ultimate view of what money will bring, but from habit they love to get money. Hence the most controlling of all the passions, avarice!

Money is of two kinds, *metallic* and *paper*. The last is in common use, because it is lent or carries with it the greater security. Paper money is issued by banks and bankers, who get a quantity of specie and issue promissory notes to twice or thrice its amount. These go to persons who give security (generally *names in credit*) to the banks from whom they borrow. These bills cannot be redeemed if all are at once presented to the bank, because greater in amount than the fund upon which they issued; and the individual paper or notes would not be received in payment, unless the bank were considered insolvent; and then there would be an end of the bank. It is to the interest of every banking-institution, then, to lend out as many of its bills as possible, because for them-it receives promissory notes yielding an interest or discount. -The bills, however, must be regulated by the chances of their return for specie to the bank. When these are not great, the issue may be extensive; but, if great, the issue must be as little as possible.

Where there are many banks, the competition for profits will induce great and incautious issues. Where banks are few, they have the power in their own hands, and may exercise their judgment calmly, always sure of getting the best securities for their bills. That commercial community, therefore, is safest where the banks are few. As a political question, it may be truly argued that banks should not exist at all. Where there are many, they issue extravagantly and lead to luxury and bankruptcy; where

there are few, they break by bestowing favors on a few,—an irregularity in society unfriendly to liberty. Besides, in a trading society the banks may ruin at their pleasure any man who is not subservient to their views.

The great error, so far as respects the comfort of society, in banking is this:—Men get money, and, except in a few instances, and those temporary, this money does not so increase itself as to allow the easy payment of discounts and reductions. Every man is then on the stretch: he has not of his own and must borrow; he borrows from Peter to pay Paul, and at last finds himself unable to pay Peter. It were better if credits were longer, and not founded upon names, but property well secured. It might then be that men would not ruin themselves and others by promising to pay when they cannot pay, or by borrowing when they cannot return. So long as names upon paper will get money, men will involve themselves and their friends; for every one thinks himself lucky, and hopes more than fortune warrants. Ten thousand dollars is taken from a bank upon good names; the note falls due; the debtor borrows to pay,—reborrows and borrows again; he reaps nothing but anxiety and insolvency, for in ninety-nine cases out of a hundred he speculates and loses his cash. His note and the names are good for nothing in the end: the bank has contracted a bad debt; it is known; its notes throng in and must be taken up. The bank presses the other debtors; and thus the whole community is convolved and agitated.

Speculations are the chief causes of commercial distress and pressure upon banks. If it were otherwise,—if the bank laid hold of property in the first instance,—its solvency would be more universally known, the pressure upon it would be less, the surety less affected by fluctuations in the amount of floating or current capital, and the pressure less upon it. Besides, money should be loaned only in a certain proportion to the value of property, so that if the debtor be imprudent he may at least be left something wherewith to repair his folly. Property is a better security than names. The last are the shadow, with this peculiarity,—that it often remains when the substance is gone.

Sept. 29, 1830.—I am now forty-one years and twenty-one days old; possessed of a good constitution with which I have taken many liberties, a mind somewhat impaired by *misfortune* and *its consequences*, and a heart broken over and over again by afflictions. I am surrounded by embarrassments and difficulties, and see no avenue of escape. Death would be a relief to me, were it not for the helplessness of my children, who are most dear to me, and the consciousness that, if *virtue makes happiness*, I am not prepared for an after-existence. I pray to God to be merciful to me! But of what avail are the petitions of one so unworthy as myself? and, moreover, these said prayers are like the king's in Hamlet,—*words*, and not *thoughts*:—"Words without thoughts seldom to heaven go!" Let me see: what would I be? Alas, the time has passed for asking that question. *What can I now be?* were more proper. Why, I can repair: no, never!—repair is not the word. I can be more industrious than I have been. I can regulate my passions better than formerly, and also my appetites. I can still do some good in the world; and as for *fame*, there is only one way in which I wish to acquire it. If I could secure to myself a favorable notice as an *author*,—but the hope is presuming and vain! I ought to put it down; and yet I cannot. It is a hope that has been with me

from infancy, and, though long deferred, is still present and affording me comfort. I promise myself this day,—

1. To be more temperate, in the largest acceptation of the term; yet I will not forsake pleasure, for my maxim is, "God is paid when man receives: to enjoy is to obey." Excess in every thing is to be *avoided*; *moderation* is allowable, and the power to moderate constitutes true wisdom.

2. To be industrious in my profession, in acquiring knowledge, and in *writing*.

3. In all that I possibly can to perform my duty to God and to my neighbor. I am not religious, but I will, if possible, become *rationaly* so. As for your *thorough-going religious man*, he always seemed to me a devil more than a saint,—more fit for hell than for heaven.

* * * * *

Brandy and wine,—but they are *enemies*; and he who obeys toward them the divine injunction, "Love your enemies," should nevertheless "keep a red eye out," lest his dear enemies should get the better of him. Three potations are enough in the twenty-four hours. I have a hankering for snuff and tobacco and a love for cigars: surely two pinches, two chews, and two fumigations per diem can do no great harm. I'll make the experiment, however, and then we shall see. I am not a luxurious eater, although I like good things. Moderate breakfasts, hearty dinners, no suppers, and seidlitz, bathing and the flesh-brush, will serve to keep me wound up during the month.

Oct. 13, 1831.—What changes have been wrought by one little year! When this journal was discontinued, I was a husband, and expecting to be the father of another child. Now, when nearly a year afterward I put pen to these pages, I am *desolate*! Children there are, to-be-sure; but the light of my life has been extinguished, and I am left in darkness!

I am now upward of forty-two years of age; and how, upon examination,—close and rigorous examination,—do I find myself? *Worse* in circumstances, worse in habits, worse in feelings! Nothing can excuse my *downward* course but absolute madness,—madness occasioned by misfortune,—excess of misfortune! God help me! I am most unworthy even to offer a prayer to the great and mysterious Being by whom I have been sorely and justly chastened.

March 4, 1832.—Woke the same miserable being as when I went to bed. I am obliged to stifle thought,—unrestrained thought; and an unbroken view of all the ills I endure and have endured, and all the woes in prospect, would kill me!

Augusta, June 24, 1832.—It is meet that I commune a little with myself. My health and constitution are impaired. I must adopt a course different from that I have pursued, in order to preserve SANITY of mind and body! First, then, my mind.

I must devote all leisure time that I can to the improvement of my mind. *History, law, politics*, science, are yet unlearned; and their order and my application to them must be regulated by rules hereafter to be adopted, when I get to the place of my new destination, [East Florida.]

1833, Jan. 31.—Passed the day at Tallahassee, and employed for the most part in business. *Nervously* inclined. Shall I never get rid of feelings which make earth a hell while they last? Took Rob to town with me,—the best and *purest* boy upon the face of the earth! Shall the

time come when his kind heart will become corrupt and his innocence give way to guilt? God forbid!

Somehow or other, there is a charm in Florida which attaches me to the country. In St. Augustine it was the Moresco-Spanish architecture, the venerable castle, the orange-groves, the bright moon and stars. On the way he sees the beautiful St. John's, the extensive pine-lands, the deep gloom of Black Creek, the magnificent Lake Kingsley, the dark Suwannee, the subterranean rivers, and the lime-sinks. Here, the lofty live-oaks, and the mossy hammocks, and the rural city, or rather forest-city, of Tallahassee, wind the spell about me. After all, the chief reason of my fondness for Florida may be that it brings me no unpleasant associations. It is true I am tracing these lines near the grave of a kind-hearted and talented youth whose relationship to me made him very dear to my heart. I think of his virtues, intelligence, enterprise, and early doom, and am melancholy; but 'tis not the melancholy which came from the contemplation of scenes in which I had met *injustice and ingratitude in their worst forms*; where I had encountered the loss of a wife,—a lovely, highly-gifted, extraordinary woman. No, no! Had I remained in Georgia I had gone crazy. I may yet, for I often feel the madness coming to my brain; but I'll strive for my own sake,—my children,—for Florida.

Feb. 1.—Spent the day at my daughter's plantation, roaming through the forest, indulging dark and desponding thoughts, reflecting on the ingratitude of —, of those who should have sustained me. Oh, friendship! Then writing a long letter to Gov. Forsyth and reading *Silliman's Travels*,—good book, but sometimes makes one think of the first two *syllables* of the author's name.

Thus has the day been made out; but it has been an unpleasant day, though my solitude has been unbroken,—and God knows how grateful solitude is to me. But my affairs—those of my child, for whose arrival here I am anxiously looking out, my *prospects* in this world and *no prospects* in another—are all gloomy, and fill me with doubt and dismay. Would I were a *Christian*! but I cannot be a hypocrite.

Weather pleasant, and, while I write, the moon and stars are shining with surpassing lustre upon the high oaks that lift their branches over my log cabin.

This is the *fatal 1st of February*. What will the *Nullifiers* do? Some think the storm will blow over. The disciples of Mr. Calhoun do not wish it to do so: a settlement of the Tariff would be death to the hopes of him and Mr. Clay. I think we shall have a *row*; but the *Union* will weather it,—no thanks to the South Carolina aspirants.

Feb. 2.—I hear by letter from Augusta (newspapers I can get none) that South Carolina's ordinance is suspended to the adjournment of Congress. That is well; it will *now* never be enforced. I wept this evening at poor Charles's* grave! Poor young fellow! how soon were all his hopes cruelly blighted! The moon is shining brightly, though light clouds are driven across the heavens by the wind. "I'll forth and walk a while."

Feb.—19. Set out after breakfast in a *stankhope*, having traded my gig for it. Like all my trades, bad; but the vehicle more convenient than the one I gave for it. But the boot,—I could not afford to give it, and should

* Charles Black, his son in law.

have been satisfied with what I possessed. Extravagance is indeed my besetting sin, and I should strive and master it.

Feb. 20.—The old man [Mr. McGehee, at whose house he stayed the previous night] has been an instructor of youth, and would yet take delight, he says, *in teaching*. In the morning I found him seated on the steps of his house and feeding his chickens. One was a *rooster* of spirit, that ate from his hand. "This," said he, "I raised from a chicken, and taught him to eat as you see, and even to light on my knee and my shoulder; but when he began to crow he took up with this young hen, and refused to eat what I offered him until he had first clucked to her, and invited her to partake." I offered the old lady a pinch of snuff: she said "'twas the first she had seen since her arrival in Florida." I gave her half the contents of my box, and she produced, to receive it, an old family snuff-box, silver, lined with gold. It had been nearly one hundred years in the family, and its top was composed of one centre-stone, a beautiful blue, with a rich vein of *gold and dove color*. I looked at the sun through the stone: he was as red as blood. The old man told me the box was in request in Carolina at the time of the spots in the sun, and more spots had been discovered through this stone than by the best telescopes.

Feb. 26.—Pass the St. John's; but my horses, carriage, and servant can't pass the river. Waves running high, wind high, tide strong. Flat, freighted with the said horses, carriage, and servant, gets two-thirds over, and obliged to put back, all in danger; but get over late in afternoon. Stay at old Hendrick's: quite sick at night.

Feb. 27.—For St. Augustine! Reach home delighted. The City of the Saint covered with orange-blossoms and redolent of sweets: more satisfied with it than ever. Meet my dear Flora and Rosalie, and my kind servants,—all pleased!

May 3.—It is proper that I should frame a course or scheme of life and adhere to it. Order and regularity are the main-springs of existence. What objects must I have in view? Health, comfort, amusement. Improve in law and history; cultivate a taste for poetry; exercise in composition and oratory. Acquire a knowledge of the Spanish, and improve myself in *belles-lettres* studies, performing at the same time the duties of a father, master, neighbor, and friend.

Doctor — and I took a walk round the Fort, my head as big as a bushel; told him my complaints; asked him to take my case in hand. He is a young man deep in consumption, but, I think, pretty good physician. We came to my house, talked with the ladies,—several there. The doctor professed to dislike the interference of preachers with sick people. Think he is wrong. Their motive is a mixed one, duty and vanity combined. If one ever attacks me, I shall see what *he knows* more than I do upon that grand and important subject. Doctor attempts, by way of beginning, to bleed me. Expresses surprise at my arm,—not rough and sinewy, but plump, round, and lady-like; not a vein to be found; blood all up in my head. I am in a bad way; but I am *not alarmed*. God's will be done!

May 22.—Getting on (in court) pretty well; only one skirmish, and that with one of the bar, whose temper and habits and manner unfit him for social life. What shall we think of one whose literary attainments are not inconsiderable, whose physical and mental powers are, perhaps, extraordinary, whose industry and energy are vigorous and indefatigable, and yet whose love of self and ambition are unbounded, who is impatient of

all restraint, suspicious, angry, and revengeful, with a spice of magnanimity and a gloss of good breeding,—to which may be added violent passions, irritable feelings, and unbounded craft? All these qualities belong to —, and make him a strange, lofty, and repulsive character. When we look to his gigantic stature, lofty brow, the deep furrows of passion around his eyes and on his cheeks,—his surly mouth, formed not even for sneers, but full of bitterness, rank bitterness,—and, lastly, his black eyes, in which you look as into deep and dark fountains of sin and remorse,—eyes which may be characterized by the word “luciferian” more than any other,—we behold a being from whom we must stand apart, who can have no sympathy with us, and who, if we approach too near him, will certainly do us harm.

May 29.—Read a chapter of the Revelation on *Horned Beasts*, and a Lesson from Sturm on the economy of bees, some of which, he says, are employed in bringing materials, others in labor within the hive, and a third class in feeding the laborers. Bees are indeed wonderful creatures: they have an intelligence and an art which man in vain might struggle to acquire, with all his boasted wisdom. I think, too, it is true that there are persons to whom they have antipathy and will attack, and others toward whom they entertain opposite or friendly feelings. Some persons may *handle* them with impunity; others suffer if they go near them. This must be owing to their delicate olfactories and the superior *fragrance* of some of our species to others. I owned bees once: they left me; old women say, a sign of decay and ruin,—but too well verified in my fortunes. Prayed feebly to God to help me to restrain appetite and to enable me to improve in good works.

DINNER FROM THE BAR.

June 3, 1833.—Since I last journalized, there have been events. The most conspicuous was the *Feast of Shells*, to which the members of my bar invited me. To me, all unsuspecting of the honor intended, came a letter fairly written upon yellow paper, informing me that the gentlemen of the long robe thought very well of my conduct, both public and private, and wished to testify their respect by giving me a public dinner. Now, be it known that I am of suspicious temper, and, well knowing the jarring elements that abound here, and the inflammable materials around me, I conned the said letter upon the fine yellow paper aforesaid, over and over again, as sorely puzzled as was poor Tony Lumpkin when the letter from Hastings met his *astounded* gaze. True, I read not only the superscription, but the inside of the epistle, perfectly well; but the intention and design, the object in view and the end to be effected, I could not unravel. “This,” said I, “looks well, sounds well: what the d—l does it mean? I know I’m no Mansfield or Hale, and don’t deserve a jot of such an honor; and, what’s more, there are those among us who participate in this thing, and are of the *same opinion*.”

“They have no desire to do me honor; and the rest, why—why—there are not more than one or two who would not be willing to see me supplanted to-morrow! How, then, shall I act? Shall I decline and make a courtly excuse, or accept the invitation, hazarding all consequences?” The devil, in the shape of vanity and good-nature, made me adopt the latter alternative. Well, I returned a very complimentary letter, and the time, Friday, three P.M., (Friday is an unlucky day with me,) came. As no place

was mentioned, I waited until half-past three o'clock, expecting an escort, of course; but none came. So I sallied forth in search of my dinner, and wended toward Loring's, where I understood the viands had been prepared. (N.B.—As the occasion was to be a public one, I thought I could not do less than prepare a *speech*, which was done during the morning, to be delivered after the removal of the cloth, and in which every thing that could be agreeable to the bar was carefully infused. "As they *treat me*," thought I, "why should I not *treat them* in return?" As well as I remember, 'twas a pretty good speech, with several clever flights!) Well, I arrived; but no porter received me; my knock was unattended to. Thinks I, "They are all so busy—the servants, that is to say—that they don't hear. I'll go in without waiting longer." In I went. A little black fellow looked at me, and ran away with some precipitation. Thinks I, "He scents my judicial dignity." On I moved, and entered the parlor. There was no table, and but three chairs, in the vacant room. Says I, "I'm under some mistake as to the house;" but my cogitations were interrupted by approaching steps, and Mr. — entered and gave me a cordial greeting. Said I, "The hour mentioned in my invitation had passed, so I thought I would come round; but I fear I'm too early." "No," he coldly answered, "but the dinner is too late." "Well," said I, "I'll return home, and come back again!" "Well, perhaps," said he, "it might be as well, and better than to stay here alone." So I was preparing to abscond, when in came a few gentlemen; and, other chairs being brought, we seated ourselves in a piazza, and a conversation commenced, during which some one or two other gentlemen dropped in. "This," said I to myself, "is not a very promising beginning; but who knows how well it may end?" So we talked of the heat of the weather, alligators, the Greek pun for *laughter*, &c. &c., when Messrs. — made their appearance and asked us up to dinner. The dinner was *plentiful*,—ham, poultry, ducks, a half *turtle-soup*,—every thing rough and coarse; Judge — at the head and Mr. — at the tail, and the guests few and far between, and vacant chairs scattered from right to left. The bar and officers of court consisted of [Here follow the initials of seven names present and seven absent, and the initials of five gentlemen, invited guests.]

Numerous invited guests did not attend. Well, round went the *turtle-soup*, and we began to masticate. But few words were said; all seemed wrapped in their own gloomy thoughts. "I wish," said I to myself, "I had been in Guinea before I accepted this invitation. Here is evidently something wrong. The President is cold and the Vice solemn; the guests few and reserved; the lawyers more silent than ever lawyers were before. Did the bar send me a cordial invitation to a public dinner that I might be thus entertained? The finger of the intriguer has been at work, and he has succeeded! It was intended to honor me: he has prevented it. It was intended to give *éclat* to a party given to me: he has made it cold and cheerless. Be it so. The gulled are to be pitied, the envious and malignant to be despised. I will be on my guard; and, while I do not show my discontent, I will neither say or do any thing to prove that I am gratified. That, indeed, would be a practical lie."

At length wine was introduced. "This," said a commissary's man, "is the gift of our friend, Mr. —, who left us this morning, in the 'Agnes,' for Charleston." "Come, gentlemen, fill your glasses," said the President. "Now," thought I, "he'll drink my health; and how shall I demean myself so as neither to be civil nor offensive?" I resolved

at once. "The health," said the President, "of our absent friend, Mr. —," (the donor of the wine.) I drank a bumper. By this time Mr. — (the champagne having been introduced) got drunk; and he, after some coarse and maudlin prelectives, called on the President for a toast. The President declined, and begged the bewildered — to get the toast from the other end of the table. — consented, and hallooed for a toast from Mr. —, who insisted he would not give one, and the President should. Then the President looked for a moment like a thunder-storm, but, turning to me, said, "If I give a toast, you'll not get under the table?" "Oh, no," said I, good-humoredly, "I'll stick to you at all events!" Then they filled; and the President, in a hurried manner, said, "I'll give you our *excellent* friend and guest, the Hon. R. R. R—, the *excellent* judge of," &c. They drank their wine. "Now," said I, "if you will be pleased to fill your glasses, I'll give you a toast." They filled. "The hospitable and *excellent inhabitants* of St. Augustine." They looked surprised. Toasts went on. One drank the Judiciary; another the Chief-Justice; another the memory of *Julius Cæsar*; another the memory of Noah; the drunken lawyer, "the memory of our departed friends;" and, moreover, he sung "*The Old Jackdaw and the Young Jackdaw*," and swore he liked no courts, because they always made d—d rascally decisions against him.

Thus flew the hours; and at length I escaped, leaving my brethren of the bar, and guests, President, Vice-President, and all, scarcely less sorrowful or sober, (except A—,) after emptying half a dozen of Mr. Lawton's champagne, than when the happy festival commenced. For my own part, I never knew a *compliment* press so closely on the confines of *insult*. Why did I accept that invitation? 'Twas a false step. I went home, and burned the notes of my speech.

Aug. 12.—About eight o'clock, a Methodist preacher called. Why can't people learn and know that a call should not be made before ten o'clock in the morning? Sent him word he must call at ten. Suppose his sacerdotal dignity has taken offence. Don't care. Preachers—yes, Methodist preachers—should learn manners as well as other folk.

Read an essay by the good Grimké, of South Carolina, on the appropriate use of the Bible in schools. Very well written, but not altogether *practical*. The reason why so many turn from the Bible is because they have been tied to it as a task in their schoolboy-days. There are two thoughts in this little work which deserve to be treasured,—viz.: "Christianity is the moral common law of this land." *To a certain extent it is so.* Like the English common law, it is of no force in opposition to a positive statute. Christianity, even, may not be regarded when the municipal law rises up against it. This is strongly illustrated by the Sunday-mails question and the popular decision upon it. The other idea is, "A well-cultivated imagination is a *gallery of fine pictures*."

Visit from my Methodist clergyman at ten. He calls to make an inquiry respecting a *legal doctrine*. I think 'tis a pretence. But he behaves himself well, talks pretty well. But I get only three items of information from him. 1. If the settler build a *short distance* from the *St. John's*, there is no danger of sickness. 2. The saw-palmetto, if cut down, buried, and rotted, makes an excellent manure for lands. 3. The air of *St. John's* is better adapted to pulmonary disorders than that of *St. Augustine*.

Went to the Castle. Penetrated newly-discovered dungeons. 'Tis

said that in old Spanish times a branch of the Inquisition existed here, and in these dungeons their courts were held and their victims incarcerated. The spikes and rings in the walls speak mysterious things. One of these apartments had been *walled up*. When opened, the air was foul and damp, and a mound of lime was discovered in the centre, among which were human bones, the remains of an old shoe, and fragments of a glass bottle. McGirt, the terror of Carolina and Georgia during the Revolutionary War, was confined in these cells. Here also was Gen. Gadsden, of South Carolina, a prisoner; and Golbert, a Frenchman, who said "he had a little mountain of money,"—which produced his imprisonment for several years. Here too, says tradition, "*the blue-blooded*" members of the royal family of Spain were imprisoned by the king, on account of his fears or their treasons, and lingered and died. Oh, if these walls could speak!

Aug. 13.—The human memory is like a tree upon whose bark characters or letters are inscribed. Advancing years cause the bark to close over them, and they are no longer distinct. When, however, old age comes on and the tree decays, the bark crumbles and falls away, and the early records become again visible and clear.

Doctor tells me that in old times, when Gov. Moore was troublesome to Florida, one Maj. Palmer was deputed against this town, and was on the point of entering the city, when a party of Spanish dragoons, who had been out on a scouting-party, intercepted them and shut the gates. Palmer destroyed a chapel outside the walls, and irreverently threw the Virgin into a ditch. He was afterward set upon and killed by the Spaniards, and his body mangled on the very spot where he had offered indignity to the holy mother of Christ.

Sept. 8, 1833.—My birthday. I am now forty-four years of age. God help me! I wish I was better than I am. "The wine of life is on the lees." 'Tis useless to resolve. Oh that I could swig all *Lethe*!—that I could erase the past and prepare for the future! For what am I reserved?

Sept. 13.—I have a singular feeling in my *right* heel, as if it were asleep. Is it a symptom of palsy or gout? Oh that my ailments could be transferred from my head to my heels! . . . Mr. Levy told me last night that, when the child of the Indian chief Bowlegs died, it was laid in a deep pit, and its negro nurse was made to stand on the brink and toward its feet. As she looked into the grave, unconscious of her danger, an Indian, prepared for the purpose, struck her with a club on the back of the head. She fell in, and was immediately covered up with the child she had nursed!

The people are the sovereign power. They formed the States; the States formed the General Government; *ergo*, the people formed the General Government. We live under two Governments, and owe allegiance to both. Both are governed by agents; and to these agents, both sets, special authority is given by Constitutions. When the Legislative agent in a State transcends the Constitution of the State, where do you resort to rectify the evil? To the Judiciary. And so in the General Government. But 'tis true that the Legislature (as in the cases of the Tariff and internal improvements) may evade the Constitution in such a way as to avoid the operation of the power vested in the courts. There should, then, besides public opinion, be some power to bring the agents

to the true constitutional path. It should be a convention of delegates from the States to meet once in ten or twenty years.

Sept. 14.—Read "Views on Death." Author pretends it is not so bad as it looks. Let him try it! The sinking heart, quivering nerves, the death-rattle, are bad enough, God knows!

Sept. 18.—I've not been well, and am greatly embarrassed by the manner in which I'm treated at Washington. They refuse to pay me for arduous duties rendered to the country, and actually are *withholding every cent* of my salary. Do they wish to get rid of me?

Sept. 19.—I am resolved to be better and wiser before I die. Hence, besetting sins! get ye *behind me!* and grant me power, Heaven, not to look back upon the *Satanic group*.

Sept. 21.—P—— also tells me that, when he was embarrassed, his friend said, "I see your situation, and will help you if I can; but I must have security." "What security do you require?" "YOUR WORD!" was the reply.

Sept. 23.—Why do I not look forward, and by my energies in the last days of my life repair the follies and errors of the past? Indolence, like an incubus, weighs me down. Yet, oh, how much need there is for exertion! God in his mercy help me!

Sept. 26.—Had before me a man of violent temper, who has sworn a larceny against another who has committed none, and wants to make me a pander to his vengeance. We shall see. I gave Judge ——, who, it seems, is urging on the *difficulty*, to understand my views upon the subject. But more of this anon.

Sept. 30.—Ye gods, how he does talk! Didn't get a new idea, except about cucumbers. "Plant them," says the captain, "in a barrel; sink said barrel half-way in the ground. The vines will run over, present a beautiful object to the sight, and bear abundantly."

Oct. 10.—The President's reasons for withdrawing the deposits from the Bank U. S. is a powerful document. He is right, if he had the *power*, which, it seems to me, is vested by act of Congress in the Secretary. The bank is a dangerous machine, but yet in many respects useful. No Bank should outlive its charter; another should be created, if it be constitutional to create any. I'm afraid the removal of Duane will injure the President. He frocks and unfrocks at pleasure; but he is a magnificent fellow, and the best *constitutional* President since the days of Jefferson, who was himself not sinless. Where did he find the power in the Constitution to purchase Louisiana?

1834, Feb. 21.—The Governor (Duval) is the best story-teller in these United States; and were I President I would make him Secretary of Legation to Washington Irving, whom I would send Minister to Russia, where he would have nothing to do but sit in a warm room and write legends from the Governor's hints. . . . Let me try my hand at one of the Governor's stories. "I was," said he, "at the President's house one evening, and there were Mrs. D. and Mrs. J., and a half-dozen others, dressed up in the first style *à la Parisienne*; and there were sofas and ottomans, and musical instruments, and lights, all of which, with the company, made a pretty picture. I had been invited to spend a sociable evening, and the ladies and the music made my heart throb as I entered the saloon,—for, old as I am, I love both. Very soon I was asked if I would not approach a group and listen to the splendid performance of a young gentleman just returned from Italy, and who played divinely. I left the side of the general, who was smoking in his large arm-chair, and

beheld, surrounded by beauty and fashion, a young man who sat on a *low stool*, with a guitar across his lap. 'Good Heavens!' thought I; 'can the spirit of harmony reside in such a temple?' He had a huge head, and on the front of which his hair had been brushed in three ways,—to the right, to the left, and in front; and then purposely some little confusion had been imparted to it. The hinder part had been closely cut. His neck was enveloped in a stock which closely compressed it, leaving two little points of *shirt-collar* projecting under his chin. He wore large whiskers, innumerable *chains* and *shirt-buttons*, was tightly laced, and bent forward in such a way as to give him, in his *close habits*, a monkey-like aspect. After some prelude, the creature opened his mouth and sung: no, that is not the word: he squalled, worked his eyes, and heaved his breast, now sinking into a whisper, and now squealing so loud you might have heard him at the Capitol. Never did I hear such horrible noises. But after a while I was relieved by the conclusion of the strain, when all pronounced it exquisite,—an admirable Italian sonnet. I went back to the general. 'Well, Governor,' said he, 'don't you like the music?' 'General,' said I, 'its d—d stuff, between you and me. Come here, Tommy Blount. And now let me have leave to make this lad from the wilds of Tennessee sing "Blue Bonnets on the Border."'" 'Certainly,' said the general; and Tommy, without any affectation, began to sing. In a moment, such was the force of his melody that the ladies and their sparks flocked around him. Their eyes glistened with pleasure and feeling: there was not the rustling of a ribbon to be heard. Tom's fine tones filled the spacious room and made their way to all hearts except the youngster from his Italian travels. When the music was done, all were warmly expressing their pleasure. I looked round for Monsieur Squallini; and there he sat on the little stool, the loneliest man I ever saw in my life. 'General,' says I, 'that's the sort of music for me.' 'Yes, Governor,' said the President; 'that's the music that makes the goose-flesh come; and nothing could be better, except Washington's March upon the drum and fife.'"

March 17.—Read a chapter in Matthew concerning the miracles of Christ,—that most wonderful of beings; but the story of the devils and the swine can't surely be true: there must be some embellishment. Read Sturm on our imperfect knowledge of things. Why did not God make us more wise? is a question which God alone can answer. We are poor worms, and must crawl our allotted span without murmuring, if we can.

May 18.—Attended old Mr. McWhir* to church,—poor old man of eighty years of age, palsied, and almost voiceless; but he gave us a good discourse. He told us Christianity was not to be rejected because of its mysteries; "for," said he, "the doctrine of deism involves as great a mystery, a *causeless cause*." Ah, neither Christians or Deists have certain information upon this grave subject. . . . Mr. McWhir told a good anecdote last night. He said, when first licensed to preach, one of the fathers of the church told him to *open his mouth when he preached*. "Yes," said another, "and, when you have done preaching, shut your mouth!" Good rule for lawyers, Congressmen, *et alias*. . . . Walked with Mr. McWhir to his boat, and saw the aged preacher embark. I would this day joyfully exchange situations with the old gentleman.

* A portrait and memoir of Dr. McWhir may be seen in White's Historical Collections of Georgia, p. 532. He was employed by Gen. Washington as a teacher to the Custis children, and affectionately spoke of him as being as "good as he was great."

July 8.—B—— was a young man of slender education, a spoiled child. He came early to the possession of a large estate, and has been a brute ever since. The first thing he did when he came to Florida was to teach his boatmen a new song,—viz. :

“Old B——’s dead and gone to hell ;
Young B—— reigns, and all is well.”

He has killed two negroes,—perhaps more. But the monster has his reward : he is not more than thirty, and is *old*, emaciated, sinking into the grave.

July 21.—There is a great pleasure in strolling through this city at night, at the vesper-hour, or a little later, whether the moon shines or not. Lovers are walking, friends are discoursing, music is playing, the mirthful are laughing. No discord, or strife, or debauchery, or sickness, offend the moral sense : all is quiet, *comfort, and content*. St. Augustine is indeed a heaven ; but where are the angels ?

July 22.—So Forsyth is Secretary of State. Heaven be praised ! He deserves it.

July 26.—“Old General” gone to Hermitage. They say he has offered an insult to his new Secretary of State already, by ordering one of the clerks from his department, (Patent-Office.) Poor Forsyth ! how sorry I should be were any thing to befall him !—for he is a man of a thousand. *Gentle, able, brave* : these three words constitute the highest points in his character.

Sept. 9.—I saw, about the year 1826, in Savannah, a Frenchman who told me he had been interred upon a belief that he was dead. He had been ill of yellow fever, and apparently *died*. He was put into a coffin, taken to the grave, let down into it. The service proceeded ; and when the earth was cast in, as the words “dust to dust,” &c. were uttered by the priest, the sounds upon the coffin-lid rolled in his waking ears like thunder. He started in his narrow house, and communicated to it a motion, which some one observing, he was rescued from his burial, and soon recovered his health.

Sept. 18.—Read Josephus. The Jewish code was certainly very humane in some particulars. A *beast* in distress was an object of particular regard ; and it was made a duty to show the roads to those who knew them not. We learn from a note that thirty shekels—the sum for which Judas sold the Saviour—was the old value of a slave among the Jews.

A woman calling herself *Joice Heath* is travelling in the Northern States and representing herself as the nurse of Washington. She weighs 48 pounds, is 161 years of age, and is a negress.

Maelzel’s Automaton Chess-Player is sixty years old, and has realized near two millions in cash. Who would not be an *automaton* for so much money ?

Sept. 20.—Judge —— and Judge —— quarrelled yesterday, and the latter called the former a liar, hypocrite, and other gentle epithets. Alas for friendship ! These gentles *know each other thoroughly*, and have long been friends ; and they will be so again,—for the one always wants a master and the other a tool. —— came to me to-day for consolation ; or, rather, he did not know what he came for : but—poor *stripe* !—he found no consolation ; for I was vexed at his folly, and told him he overvalued his importance,—that he was excessively vain, and withal nervous, and morbidly

sensitive. I am sorry I treated him so, rubbing the sore instead of applying the plaster; but I myself was irritable.

Sept. 24.—It seems our Saviour spent the whole night in prayer before he chose and sent forth the Twelve. The apostles all prayed before they appointed Matthew one of the Twelve. Christ must have been a great orator: his very enemies said, "Never man spake like this man."

Sept. 25.—In riding through this ruined city, with its faded orange-trees, two or three objects struck me as being very agreeable,—*vines* that had completely enveloped several orange-trees, so as to make them as green and beautiful, almost, as when in their high and palmy state: not a withered branch was to be seen. The parasites closely embraced the dead trunk and limbs, and bloomed over decay which they concealed and adorned. Here was a convolvulus with its simple flowers, and there a gourd as luxuriant as Jonah's.

Oct. 6.—The hymns of the Episcopal Church are very well composed,—some of them beautiful, especially that beginning with "Oh for a closer walk with God!" That was a favorite of my dear wife, and I was rejoiced to meet with it.

1835, Feb. 28.—Poor — (a handsome man of color) calls. He is very intelligent, but has a spirit incompatible with his station; has been impertinent to a white man, is in a scrape, and wants me to assist him out of it. Will do what I can; but the fellow is wrong and improperly advised.

March 14.—Walk. A long walk,—delightful evening of spring. But, alas! the orange-groves have been blasted, and the chief charm has departed from St. Augustine. When a case in which this city was plaintiff was called, Downing suggested the death of plaintiff, and said 'twas occasioned by the late frost! Pretty good.

July 19.—I have prayed to God to help me; to guard my children from harm; to make my efforts what they can't be without his aid,—successful; to make me a virtuous man; to protect my children and friends and servants, and to make *all* good and faithful servants of his will; to defeat my enemies and make them my friends. If *He* does not help me, I am lost.

Turned my attention to *business*, when in came the Marquis Fougères and Gen. Hernandez. The old marquis was quite interesting, and we talked of his planting-establishment lately purchased, the Catholic religion, Bishop England, &c. &c.

St. Augustine, East Florida, September 26, 1835.—Christ called upon the Jews to believe *in him*, in order that they might believe his doctrines. His object was to show that his doctrines came *from God*,—that he was sent to propagate them: he never taught that he was God himself. He continually referred to a previous existence:—"Before Abraham was, I am;" but, if we are *immortal*, it is quite probable we all have existed before this our present state of suffering was thrust upon us. Bossuet says, "The Son of God is unique, because he is perfect; his generation drains, if we may so speak of Infinity, *all his paternal fecundity*." Here is a strange idea!

Oct. 2.—Mr. Edwin Forrest [some judge] says, *Henry Placide* (I remember him, a boy, when he played a servant's part in my drama of *Pulaski*, in which his talented mother performed *Lodoiska*) is the best actor extant in *his walk* upon the stage,—comic, I believe.

Oct. 20.—The Holy Water of the Catholics is consecrated at *Easter* and *Pentecost*,—twice a year.

Oct. 27.—Read Verplanck's Orations until late at night. He calls La Fayette "the model of republican chivalry, the Hero of three Restorations, of two centuries, and of both hemispheres!" How *just* is this praise, and how few are praised *justly*! Of William Penn he says, with equal propriety, "He was the gentlest and purest of rulers."

Oct. 29.—The Catholics think the Lord remains in person with them so long as the bread remains entire in the stomach,—say from a quarter to half an hour, [after the Eucharist.]

Nov. 1.—The papers already say that Mr. Eaton will go to Spain if he wishes it; and he will wish it. But who is to be *Governor* in his stead? Most persons would imagine that I have some chance; but 'tisn't so. It will come *unlooked for*, if it comes at all.

Nov. 10.—O'Connell's rents for 1835 are \$67,500. He can very well afford to be a patriot when he is so well paid.

Dec. 21.—Half of the diseases of the world are imaginary. The sufferer is half dead before he finds it out, and half cured when he does.

1836, January 10.—The Indian war is still going on. At the battle of the *Withlacoochee*, the regular army behaved with courage: a shower of balls passed *about Clinch*, who deported himself gallantly. His garments were cut by bullets in many places; a ball passed through his cap.

Jan. 14.—Nothing so much impresses us with a conviction of the glory and power of God as *the night*.

I have been reading an account of the effect of music on birds. I well remember when Janet [eldest daughter of Judge Reid] was learning the *piano*, she took her lessons in a parlor where hung a cage with two canaries. The birds had never sung; but they listened at first very attentively to the notes of the piano, and soon found their own sweet voices.

Jan. 15.—He who wades through the Scriptures without considering time, place, and circumstance is in danger of falling at every step.

Jan. 16.—How happy is that man who loves God and walks in his fear,—who *acts* for the purpose of *pleasing him*, and is regardless of all beside!

Feb. 2.—The charge of Moses to the judges, as he himself relates it in the first chapter of Deuteronomy, is very impressive. They are to hear, to judge righteously between their brethren and the stranger, to respect no person, to hear the small as well as the great, and not to be afraid of the face of man. Would that all judges would attend to these directions!

Feb. 12.—Yesterday, while riding with —, our horse ran off, alarmed by the firing of a gun, and the bullet whistled by us; but no harm was done. I have had an agreeable ride; and, though we escaped the shot, we were near a man by whom the bullet passed. Such negligence is intolerable; so I met the major and complained. If people *must shoot*, I wish they would select their hour, so that I might know when to ride without danger to myself. The poor major has cut port-holes through his house, and is prepared for an attack from the Indians; besides, he keeps a barrel of gunpowder prepared to blow up his wife and children if he can't keep the Indians from scalping them.

Feb. 27.—Paul inculcates prayer and thanksgiving, and the making known requests unto God; and, in answer to these, he promises the "peace of God which passeth all understanding." Oh, had I that peace! Shall I ever have it? Is it reality? or does it come from the imagination?

March 2.—I shall, as to my own correspondence, abolish the miserable slang of "obedient servant." To friends the conclusion should be, "I am faithfully, or sincerely, or truly, or respectfully, or affectionately," according to the fact of the case; to others, respectfully, truly, &c.; all that should naturally and properly, and, if the writer pleases, all that does usually, follow such words; but I will use the word "servant" no more.

March 7.—A *courtier devil* made his bow before Satan. "Sire," said he, "an old sinner has died, leaving his large fortune to charitable institutions." "Then we have lost him," said the devil. "Not so," said the imp: "he has many relations, and has made no restitution to the plundered; but, if the worst comes, we have gained *twelve souls*,—for he has twelve trustees of his charity."

March 9.—This life is a pathway, where flowers and thorns are perpetually springing; but there is a resting-place on the road for every one. If we stop to clear away the thorns, to pluck the flowers, to examine our scratches or regale our senses, we shall perform the journey but badly. *Onward! onward!* is the word. Or, as Crocket used to say,—poor soul, he is dead!—"Go ahead!"

Six lawyers in Georgia have attempted to monopolize stock in a new bank in Augusta, by combining their names into forty-eight different partnerships. Well done for the *ingenuity* of the bar! but "fair play is a jewel!"

March 11, 1836.—I pray to my Father with some warmth and importunity. No; that is an irreverent word:—earnestly, but reverentially. What a suspicion continually haunts us that things *will be as they will be*, and that God will not, perhaps *cannot*, answer our prayer! Such thoughts do come over and darken the mind. *I strive* to dismiss them and believe in the *unlimited* power of God. Faith! faith! would that I *had* it!

March 13.—Naturalists insist that plants have not the faculty of *feeling*. I'm inclined to think *they feel in their own way*,—which we, on account of the difference in our nature, cannot comprehend. 'Tis therefore that I hate to see a leaf, branch, or flower wantonly and carelessly plucked. Even flowers for the ladies I would deny: while the fair brow is beaming with radiance and the heart beating with gladness, the poor flower is experiencing the pangs of the dying.

March 30.—, the barber, calls on business, and discourses me for one hour and a half. He tells me of the splendors of *Easter* in Spanish times. Thursday was a grand day: all the apostles were paraded in the illuminated church. Then came the gloomy Friday; then the silent Saturday,—not even a bell ringing; then the morn of resurrection, ushered in by ringing of bells and every demonstration of joy. In the course of the day there was a procession, in which the apostles figured; and even Judas was there, with his bag and thirty pieces of silver.

April 15.—An English chaplain used to be always interrupted in his discourse by the impudent sailors. On Sunday they had a way of putting their fingers in their mouths and making a noise like the drawing of a champagne-cork. The chaplain frowned and winked and blinked; but it did no good. At last he said to an offender, "Come, d—n your eyes, no more of that!" The offence was not repeated.

It is said that the business of an English chaplain is "to take the head of the table, prepare the punch, mix the salad, and *pepper the devils*."

I once knew a chaplain: he had belonged to the *ill-fated Chesapeake*: he was English, allied to a noble family, his name —. He loved wine

and good cheer, had been a respectable merchant, but had failed from extravagance. Ye gods, how he sang! I shall never hear again "Flow, thou regal purple stream," and "Roy's Wife of Aldivalloch!" He died poor, and, of course, friendless.

There is one feature very objectionable in the present war against the Indians. Our officers and men *set up for heroes* much too soon! If a man sits up on guard all night, if he wanders a dozen miles, if he is hungry on his march, if he gets frightened and fires off his gun on guard, if he sees an Indian, if he hears a bullet whizz by him,—*especially if he is shot*,—he is a hero.

1838, April 17.—The "Savannah," an American vessel, first crossed the Atlantic by steam in 1818-19.

May 22.—The Sub-Treasury bill is everywhere condemned,—which was to have been expected, considering the *power* of the banks. 'Tis an old maxim:—money is power! After all, the Sub-Treasury bill is but a choice of evils.

Steam, steam! Why, the smoke of thousands of steamers will rise, like the fumes of a huge caldron, from the ocean. Steam is but in its infancy.

May 24.—What is the cause of the distress which has so sorely visited the commercial classes? The extension of credit, followed by a sudden contraction thereof. It is to the banks that we are indebted for this *elasticity of trade*.

June 23.—Connecticut is getting democratic. She has given the election of justices of the peace and judges of probate to the people.

Mr. Snyder proposes in Congress to abolish the Military Academy. They had better give *more* light, instead of putting out what little there is.

Columbus discovered the New World on Friday; he had sailed on Friday; the Pilgrim Fathers landed on Friday; Washington, Madison, and the younger Adams were born on Friday.

July 10.—Read the heart-sickening account of the Pulaski! They seem inclined to blame the mate; but, in my opinion, he acted well. How heroically the women behaved! How generously some of the distressed, who gave up their slender support on the waters to those who were weaker than they! How admirably Mr. W—— died with his wife and child, in prayer! In the horrid accident there are many things to reconcile us to our nature. How well Heath put down the proposition to cast lots! How devotedly the negro cared for the safety of his master! How strong the attachment of parents and children, and husbands and wives! It was indeed a noble crew!

Talleyrand is at last off. He was certainly a very *managing* sort of fellow.

July 12.—Every time I read the "Tempest" I find something new; but it is always so with Shakspeare and the Bible.

July 24.—The mob at Washington has dispersed,—leaving things pretty much as they found them, and after having made a great noise and wasted a great deal of public treasure. What a *bore* a seat in the House of Representatives must now be! The days of the Lowndeses, Randolphs, Clays, and Forsyths have passed away; such men as —— and —— *gabble* in their places.

July 29. I have been watching my *ant-nests*: it seems that the young are born with wings, which they are soon forced to use,—for the old ones drive them off to settle for themselves.

Aug. 4.—Read a letter from James, [Midshipman Reid,] who is soon to sail for the Antarctic seas: he is in fine spirits.

Clay was nearly lost, on board a steamboat, on his return home.

At the Astor House, clothes are washed, dried, ironed, and fit for use, half an hour after they are given out.

The Texan minister has committed suicide. [Col. Grayson, at Louisville, Kentucky.]

Aug. 6.—Mr. Clay thinks the Rev. Mr. Bascom the most eloquent man he ever heard speak.

Aug. 13.—Rothschild has well said, "England is the bank of the world."

It is a strange idea of Mr. Legare's, and very malapropos for a *Union man* to express, that nothing but a dissolution of the Union can build up Charleston!

Aug. 26.—Rhode Island and North Carolina withheld assent when the Constitution was ratified; but when Congress was about to treat them as foreign States they *came to their mush*.

My boy [Midshipman Reid] is appointed to the command of the *Sea-Gull*, in the Exploring Expedition. May God bless and prosper him!

Aug. 29.—Two strange things. In Maine, lightning lately descended through a feather bed; and a man in South Carolina, though shot through the breast, continued to fight on until he had conquered his antagonist, and then died.

The best application to the ear when any thing gets into it is *laudanum* and *brandy*.

About 1750, the Seminole chief Secoffer lived in Alachua. He was a great man, and violently hostile to the Spaniards. When the English came, in 1763, he was their friend. When the Spaniards returned, in 1783, he prepared an army against them, but took the fever from over-exertion in the sun, at seventy years of age, and died. Whilst dying, he sent for his sons, Payne (afterward King) and Bowlegs, and exhorted them to proceed with the war,—requiring them to kill fourteen Spaniards, for that he and his kindred had vowed to kill one hundred: they had slain eighty-six; but his and their spirits would not rest without the other fourteen were killed. Payne, his successor, did not obey him.

Penhaja, a young Indian, was upbraided by his mother because he had not killed an enemy to revenge the death of a near relative. He said he would convince her he had done all that he could, and, bringing his rifle from his tent, shot himself.

King *Payne* was killed by Newnan's men in 1812. 'Tis said he exposed himself to rally his men.

Aug. 31.—It is very delightful to me to know that my boy is in command of a vessel,—the *Sea-Gull*.

They catch a fellow who had been stealing watermelons, and bring him to me naked as he was born. I flourish my whip, and pretend to be in a great rage,—but dismiss him *intact*. There are several *devils* who have been keeping a *market overt* upon my watermelons.

Sept. 1.—Spain *incorporated* the Indians and made them subjects. Did she not pass them over to the United States by treaty, to be admitted into the Union? Yes; but according to the principles of the Constitution; and ours is a Constitution for white people, and not red and black. Motley is not our wear!

Sept. 3.—Letters from my boy put me in spirits again. His last is

dated on board the Sea-Gull, a schooner of 110 tons, which he is commanding, (I can't repeat it too often: he is justly proud of it, and so am I,) off Cape Henry, 17th August. May God bless him, and restore him in safety to us!

Sept. 6.—All bank-notes in England are payable in gold,—silver not being a tender for more than 40 shillings. The English gold coinage will consist of the £5 piece, \$25, (the largest coin in the world, except the Portuguese \$32 piece;) the sovereign and half-sovereign, equal to the eagle and half-eagle,—\$10 and \$5. The silver coinage will consist of nine pieces: crowns, 5 shillings; half-crowns, 2s. 6d.; shillings, 24 cents; groats, 8 cents; queen's maunday-money, 8 cents; 3 d., 6 cents; 2 d., 4 cents; 1 d., 2 cents.

Sept. 11.—The gloom of the weather, too, has had its effect on my spirits; added to which, my forty-ninth birthday has just passed. A man should begin to feel the pressure of age a little when *he is approaching fifty*.

Sept. 13.—The Indians have been within a few hundred yards of Arenta. They stole fifteen horses. [Arenta was the country-seat of Judge Reid, within a mile of St. Augustine, on the Sebastian River.]

Sept. 15.—The exploring squadron consists of Vincennes, 750 tons, Ch. Wilkes, Esq., 8 guns, 150 men; Peacock, Wm. L. Hudson, Esq., 600 tons, 130 men, 8 guns; storeship Relief, A. R. Long, Esq., 450 tons, 6 guns, 75 men; brig Porpoise, Lieut. Cadwallader Ringgold, 200 tons, 4 guns, 65 men; the Sea-Gull, my son commanding, 110 tons, 15 men; the Flying-Fish, 90 tons, 12 men, passed midshipman Samuel Knox. The squadron left Cape Henry on the 18th. God speed them and my sailor-boy!

Sept. 17.—Yesterday I was moody and indolent, but read my Bible, and a fine sermon of Blair's on confidence in God. He says there are only two ways of getting on in the world,—by worldly wisdom and by *principle*. The first, I say, will succeed sometimes with the world; the last will ultimately triumph both on earth and in heaven.

Sept. 25.—Socrates in old age learned music; Cato, at 80, the Greek language; Plutarch studied Latin between 70 and 80; Boccaccio was 35 when he began the study of polite literature; Sir Henry Spelman addicted himself to the sciences between 50 and 60; Colbert at 60 resumed his Latin and law-studies; Doctor Johnson learned Dutch in his old age; Ogilby did not understand Latin and Greek till past 50,—he translated Homer and Virgil; Franklin became a philosopher after 50 years of age; Dryden was 67 when he commenced the translation of the Iliad: he wrote some of his best poems in old age.

Sept. 30.—The mind sometimes becomes *saturated* with proof, and no increase of conviction comes of multiplying witnesses: a thousand witnesses are often no better than five or six. When evidence is pretty equally balanced, 'tis the dictate of wisdom to lean to the safe side. When we are satisfied by sufficient evidence, 'tis unsafe to yield to an objection which we cannot solve.

Oct. 1.— — told me last night queer stories of B——, how he used to give himself up to debauchery and deviltry. He was a young man put in possession of a large property, without education or experience. He would have about him a dozen young fellows, whose business it was to tickle his feet and to rub his head when he was drunk; and on the slightest provocation he punished them severely. Once a negro woman laughed

at one of his companions, who, very drunk, reeled on his horse. He called up the fifty women on his plantation, and caused each to be *put over a hog'shead and paddled* severely. Again, he ordered his negro preacher to pronounce a sermon. It did not please him, and he gave the preacher fifty lashes. Upon another occasion he caused all his negroes to be collected, and, placing the preacher across *a beam*, he made him deliver a discourse, and then proceeded to *whip* the whole congregation, when a *bat* flew into the room, and the preacher exclaimed, "Lord, massa! lookee de bat!" "Open the door, Robin," said the drunken B——, "and let them all go, bat and all." He believed in neither God nor devil.

Oct. 6.—When Queen Charlotte, the spouse of George III., was hissed by a mob, she put her head out of the coach-window and exclaimed, "Vat for you hiss? I come to England for your *goots*." "Yes, and our chattels too!" returned the mob.

A certain learned Dr. Campbell looked into a pamphlet in a book-seller's shop, was pleased with and bought it. When he had read it half through, he discovered 'twas *his own production*.

Oct. 7.—Oh that God would put me in the right way! The preachers say, Prepare! prepare! How prepare? What shall I do to be saved? Which is the path of salvation? Who among Christians are *right*, and who are wrong?

Oct. 18.—Yesterday, Janet [Mrs. Graham] left me, and I was sick, sick at heart! My dear daughter, there are few women like you in this world! So much good sense and good heart! May God bless you! I shall perhaps never enjoy much of your society again; but I shall love you tenderly to the last moment of my life. Oh, you have been so sweet to hear, so kind a child to me! If Heaven loves goodness, it will be *kind* to you. How much I miss Janet and the captain!

1839, July 27.—We should be quite dull but for little Travers, [infant son of Judge Reid.] He was baptized the other day. God bless him! He was rather naughty at the fount, and fought the man of God manfully,—at least in a way quite exceeding his years, and promising a proper spirit of resentment in after-life. The fitting vows were made by his godfather and godmother, and the affair ended with wine and cake.

Aug. 25.—Mr. Bell, an English lawyer, wrote three different hands,—one he read himself, one his clerk could read, one nobody could decipher.

Sir Edward Sugden was *irritable*.

A lawyer once a judge cannot return to the bar in England.

It is a happy knack to know when to stop.

Every sentence should express an argument or state a fact.

Clients often suffer from the long speeches of their lawyers.

Lawyers do not change circuits in England; 'tis considered a breach of etiquette.

In the case of *Atwood vs. Small*, Mr. Sergeant Wilde received, from first to last, fifteen thousand guineas,—five thousand with his brief, and fifty for every day he appeared, (say forty days,) and twenty a day consultation-fees. His fees were repeated when the case went to the House of Lords. For six weeks he shut himself up and studied the case in solitude. He spoke twelve or fourteen days in the House of Lords.

It is sometimes better to damage the case of your opponent than to establish your own.

Knights were bound to speak the truth, to succor the helpless and

oppressed, and never to turn back from an enemy. They were simple in clothing, austere in morals, humble after victory, and pious under misfortune.

Sept. 8, 1839.—I am *fifty years of age* this day. I think of a better life rather than resolve upon it. God's will be done!

Sept. 10.—In the Bible and Shakspeare you can always find something suited to present times.

Oct. 5.—I am made unhappy by an account from the *Baltimore American*, which states that Capt. Waterman, of the brig Philip Hone, reports the ship Falmouth as having left Valparaiso for Callao on the 13th June, and the exploring squadron on the 3d, and that fears were entertained of the safety of the Sea-Gull, she having parted company from the Flying-Fish in a heavy gale off Cape Horn! And yet is it possible that the squadron *returned* without going to the Columbia River? I trust in God there is some mistake. My dear, brave boy! do you still live? 'Tis now half-past ten, and a rough night. I am miserable even to madness!

Oct. 20.—A melancholy day. My poor, dear, and brave boy! he is resting in the ocean! A letter from Callao on the 17th July says his vessel has not been heard from in three months. And yet 'tis *hard* for me to realize this calamity. My God! have mercy on an *erring child*, and save his child!

Tallahassee, Feb. 4, 1840.—I have been Governor of Florida since the 13th of December. To-day has been one of business.

Not well in the morning; but to my office. Every body calls: visits of business and ceremony.

Feb. 20.—I despair about poor James. Oh, my son! my son! my son! Are all my hopes of you blighted and blasted? My heart is very sorrowful, and I feel an impatient solicitude to know the worst! But I will keep all to myself, for nobody *can* sympathize with me. My noble boy! who would not mourn the loss of such a son? God help me! for I need his help.

March 6.—My poor James's fate hangs upon me like an *incubus*. My son! my son!

March 12.—Gen. Taylor calls. He considers the dogs good for nothing, and goes for posts, posts, posts! He abuses poor —— and considers the country well defended. He is not the man for me. We part in civility.

March 31.—Gen. Taylor refuses to pay for the dogs. He wants companies, and is under ——'s control.

April 4.—Capt. H—— calls,—an excellent officer, I take it. He thinks the Indians should be pursued incessantly; that Taylor's plan of scouring the country is good, but not well enforced,—too little time allowed and at last performed in a very slovenly manner; thinks there are few Indians between the Appalachicola and this place.

April 13.—It seems Twiggs has returned from his expedition to the Oclawahée and unsuccessful, and the bloodhounds good for nothing. Alas, alas! The volunteers must endeavor to do better with them!

April 20.—Mr. Burritt, a blacksmith of Massachusetts, is a self-taught and learned man: he has compassed nearly fifty languages.

April 21.—Letter from Gen. Taylor: he is *crusty*, and does not judge correctly.

April 23.—Return home with a sad heart. But little hope remains to me: *my son*, my noble, brave boy, is indeed lost,—

"Cut off from honor and from glory's course,
While never mortal was so fond to me."

God bless me! 'tis the heaviest affliction which could befall me.

April 25.—Made known my military scheme to Gov. Branch. It is this: let the Executive *defend* the country, the army *offend* the Indians. The Governor approves.

April 26.—It is strange that, with such manifestations of the Deity ever present to us, our devotions should be ever cold; but, alas! man is too *selfish* to feel a proper affection even for the Divinity.

April 27.—There is no hope: my beloved son met his death, now near twelve months ago, in the Southern seas. I will not say farewell: the thought of my son is ever present with me, and we shall soon meet again!

April 28.—The last night was almost sleepless. Confused dreams were all of sleep that was permitted me. "Oh, my son, my son! would to God I had died for thee!" said David for the insurgent and ingrate. What shall I say of the best, bravest, and kindest son man ever had? My dear, dear James, how my heart swelled with pride and joy when I looked to you as the favorite of your country and the support of my old age! Now your bones are tossing in the wild waters, and I have no consolation but the hope that one more bright spirit is pleading with the Almighty for your poor and afflicted father. Dear son! when night comes I think of you more intensely. I can over every feature, remember the lustre of your eyes, the laugh of your lips: even the moles on your neck and brow are visible to me. I shall never be happy again. And yet there is a glimmering of hope,—not for me, but for others,—which I must not destroy. I cannot mingle my tears with your sisters': let them hope if they can. I cannot!

May 6.—The public debt of Florida presses with the weight of two hundred dollars upon every man in Florida; and yet our people don't want to go into the Union, for fear of *taxation*!

May 28.—I am far from happy. There are cares which oppress me. My private business suffers. There is nobody to help me, but in public matters. Above all, my noble son! Alas! "I shall go down into the grave unto my son mourning."

Well, I will pluck up courage and strive *to do* for my country and my family, my friends and myself. We shall see how things will be a year hence.

To my office. Gen. Miller keeps me in formal discourse for nearly two hours, interrupted only by Capt. ——'s awkward history of his scouts and soldier-life. He complains of the multitude of snakes in the lagoons and lowlands near the seaboard.

July 11.—Read portions of the Psalms. What a heart David must have possessed! How thoroughly penetrated by the love of God!

1841, *March 29.*—How much have I suffered!—a thousand deaths! My poor heart, why is it not broken? and my head, why not crazed? Both have been near such destiny; but I am now calm, and think my spirit has achieved a mastery over misfortune.

The mail comes. Reports of my dismissal from office not confirmed by the papers; but it will come. Harrison is *in a terrible fix*,—overrun by politicians and office-seekers. It would not be wonderful if the old fellow's steps to the grave were not hastened by such cares.

April 2.—I am preparing for the *ejection*. I expect the old hero will

certainly send me *packing*. . . . I am in a more perplexing condition than I have ever been in my life. To-morrow may enlighten me.

April 7.—I might quote Cardinal Wolsey, but I don't despond. Let them take away office; I'll try to do without it. . . . Removal cannot disgrace me. "More true joy, Marcellus," &c. &c.

April 28.—Gen. Harrison is dead. The Remover is removed; the *Reformer reformed*. He was literally assassinated by his Whig friends.

2 o'clock P.M.—Just returned from Gov. Branch's, whither Martha and myself went to attend Gen. Read's funeral. The company with the body had left "Live-Oak" for the burial-place, some miles distant, before we arrived. Thus the proud, high-spirited, and, in some sort, gifted, *Read* has gone to his account, cut off in the very flower of his days by an assassin!

May 4.—I have not been doing much for the past week. I must be more incessantly employed. Action, *action, action*, for the remainder of my life! The following is the scheme I have resolved on for the next four months,—viz.: May, June, July, and August. [Here follows a plan allowing certain hours in each day for business, recreation, reading, family, &c.]

May 6.—My life, at near fifty-two, must be an *experiment*, and the following my pursuits:—

Imprimis.—I will practise law if employed in important cases.

Item.—I will devote myself to literature and to law, and deliver lectures on both in the fall.

Item.—I will strive to be an author, and place my chief dependence on that.

I have other plans with which others are interested; but I shall not set them down until I can "imprimatur," as upon the foregoing.

May 24.—"The President," I fear, is lost. I mean the steamship; but her misfortune is a true type of that which awaits the man in the White House.

So Tyler is showing more and more of the cloven foot. He has appointed two abolitionists to office.

June 11.—I've had a hard time of it of late. Been quite unwell myself, and our poor Travers almost gone. I've never seen a child of mine in a fit before, and I hope never again to look upon any thing so horrible. Martha bears it well, but is really worn and fatigued. Our dear child is better, and that compensates for all. May the change be permanent! [The journal ends with this date.]

For the liberal quotations he has made, the author, so far from apologizing, is inclined to challenge the thanks of his readers. He considers that he has provided them a feast. Surely no man can peruse these reflections made in the closet by Judge Reid without thinking better of the human heart. He did not live half through the four months which he had subjected in imagination to a regular plan for the improvement of his condition.

It will be seen that no entries appear for 1837, as no journal of that year was submitted to the author, for the reason, it is believed, that none was kept. And here he takes occasion to notice an event in the life of Judge Reid which took place November 6,

1837,—his marriage with Miss Mary Martha Smith, daughter of Captain James Smith, of Camden county, Georgia. The union was most happy. Miss Smith was much admired for her superior intelligence and graceful manners. She proved an excellent companion, and was the pride of her distinguished husband. Two children were born to them: one died in infancy, and the other—Raymond Jenckes—is now living with his mother in St. Augustine,—a very promising youth, inheriting the features of his father in a striking degree.

Thus far no mention has been made of the partisan efforts to injure Judge Reid in the estimation of the President and to lessen his popularity with the people of the Territory. Besides his judicial functions proper, he was required to investigate land-claims in the character of a commissioner and judge combined, on all of which he was to hear evidence and report at length. The late Col. Joseph M. White, who was then the Delegate in Congress, pursued a course inimical to Judge Reid, which called forth a full and complete vindication from the Grand Jury of St. John's and Mosquito counties at March Term, 1837. An extract from their general presentments is here given, signed by Edwin T. Jenckes, foreman, and twenty-one other members of the Grand Jury:—

The Grand Jury, in conclusion of their business for the present term, cannot refrain from expressing their regret and surprise at the effort made by our Delegate in the last session of Congress to remove from this Judicial District all proceedings for land-claims and losses sustained in the years of 1813 and 1814 to the District of Middle Florida. This, if carried into effect, would prove ruinous to the interest of the unfortunate sufferers and claimants and defeat the ends of justice, as they would be constrained to abandon their claims for want of the means of prosecuting them at so great a distance from their homes. The Grand Jury are of opinion that this uncalled-for measure on the part of Col. White was not gratuitous, but originated with some designing person, no friend to the welfare of East Florida. To the complaints of *delay* in the decision of these claims by his Honor Judge Reid, the Grand Jury are of one sentiment. They believe that he has done every thing in his power for the furtherance and speedy adjustment of them which his other duties and the unfortunate state of the country would admit of; and, if any unusual delay has occurred, it was in consequence of the claimants not being able, from the disturbed state of the country, to procure such testimony as would warrant the judge in making a decision without great injustice to the parties concerned. They cannot believe that the residents of Florida, and the citizens of the United States who are interested, have any conception of the arduous duties which the judge has to perform. The Grand Jury, in consequence of this effort of our Delegate in Congress, taken in connection with his circular letter of the 16th of February last, addressed "To the people of the Territory of Florida," wherein he has attempted by imputation to cast censure on Judge Reid for a *delay*

on his part in bringing these claims to a speedy termination, beg leave to submit a statement of the following judicial duties which he is called upon annually to perform.

On the first Monday of January, he holds a court of appeals at Tallahassee, which occupies some three or four weeks. He then returns to St. Augustine, and on the second Monday of March holds a court for St. John's and Mosquito. On the second Monday in April, he holds a court for Nassau; thence he goes to Alachua, and holds a court on the third Monday of the same month: the court for Duval sits next, on the first Monday in May, and lasts to the end of the month generally. He then returns home; and, on the second Monday in July, the court for land-claims commences its session, and usually continues through the months of July and August. This court adjourned, he holds a court of chancery, that sits on the second Monday of September, and by the time the business of this is through, the period arrives for holding the October Term for St. John's and Mosquito, which meets on the second Monday of that month; for Nassau, on the second Monday of November; the court for Alachua, the third Monday of the same month; and for Duval, on the first Monday in December,—which, like the former, generally lasts to the end of that month. Thus ends the year, but not the labors of the judge. He has then to arrange his papers, transmit to Washington voluminous documents, and prepare to hold again the court of appeals at Tallahassee on the first Monday of January,—as to this court are carried up, on certiorari, all appeals from the multitude of justices' courts and courts of common pleas of the whole Territory.

The Judge for the District of East Florida acts as Chancellor and Master in Chancery, Judge of Appeals and a Commissioner of Claims, and Judge of Common Pleas and Sessions,—a most laborious and harassing duty for one individual, to say nothing of the correspondence necessarily growing out of these multifarious proceedings. Yet they have been performed, when the health of the judge and the state of the country would enable him with safety to travel. But strange to say, that although his duties are *more* than any other judge in the Territory, he is paid *less*; and—what is still more inexplicable to us—he is not paid the salary to which he is entitled by law. And the Grand Jury would here say, that from the facts in their possession the course of Judge Reid has been such as to promote the best interests of the United States, the prosperity and welfare of the inhabitants of this Judicial District, and should meet the approbation of all.

The Grand Jury request of his Honor the Judge that these presentments may be read in open court and published in the *Florida Herald*; and that he order a copy to be transmitted to our Delegate in Congress, and also a copy to each member of the Legislative Council.

In the midst of his judicial labors, onerous as they have been shown to be, Judge Reid was ready to comply with the request of his fellow-citizens to render the anniversary of Independence a feast of patriotic meditation by his ripe abilities. His address to the citizens of Augusta on the 4th July, 1813, has been already noticed. Twenty-five years afterward he stood before the people of East Florida, to discourse with them on the same great issue,—

the rights of mankind, the blessings of liberty, and gratitude to public benefactors. An extract from his oration at St. Augustine on the 4th of July, 1838, is here given :—

In 1821, the provinces of East and West Florida passed into the hands of the United States, in consequence of a treaty previously entered into with Spain. The union of a portion of the subjects of an ancient and heroic monarchy with the citizens of the first republic in the world was a subject of great interest. It was a problem of curious speculation, whether the institutions of the United States were suited to the Spanish genius,—whether the American and Spanish feelings would *chord* together.

When the change of flags took place, the inhabitants of the Floridas were ripe for liberty. At a distance from the mother-country, they had been governed for the most part by wise magistrates, whose equitable rule diffused contentment and security and a knowledge and value of *rights*. The stern and inflexible integrity of WHITE, the devotedness of KINDELAN, the social virtues and high qualities of COPPINGER, are favorite themes with those who love to remember the governors of this land. But Florida had already imbibed free principles; she was not governed alone, when the union took place, by kingly prerogative exercised through an agent here. She, like the States, stood under the sacred shadow of a Constitution,—a Constitution the work of Spanish patriotism in 1812. The monument of Spanish liberty stands yet in your city. It is the only one, perhaps, in existence; for after the transfer of Florida to the States the pure monarchy was restored to Spain, and the stone obelisks—the waymarks of the revolution—disappeared before the potency of the returning sceptre, as well from the mother-country as the ultramarine provinces.

The native Spanish character is well adapted to free and liberal principles. It is like the beautiful image of the Spanish nation,—a combination of strength and sweetness,—the Roman dignity with the polish of the kings of Cordova. The experiment has succeeded well in the Floridas, and a few years have made the native inhabitants and the American emigrants *one people*.

And cordially and quietly and prosperously were we moving on, fellow-citizens, when the Government sought to remove the Indians from our Territory before the preparations for that purpose authorized the attempt. The Indians, stung by an indignity offered to Osceola, urged by his influence, and operated upon by their young men, who were panting for war, gave a loose to their savage fury,—a fury which, notwithstanding the efforts of army and militia, remains yet to be subdued. The idea that the "*war is over*" is vain and delusive: it should not be indulged, because its tendency is to prolong hostilities, which may only be quelled by determined, vigorous, and constant effort. Though much has been done, much remains to be accomplished. The end is not yet: no longer beguiled by the promises of our own hopes and of these wretched barbarians, let us rely upon a *persevering energy* to banish from the Territory a cruel, crafty, and ignoble foe.

How this war has been conducted it is not my purpose to discuss. A decision upon that question will be pronounced with better grace and more justice when the departing Seminole has breathed, like the Moor of Grenada, "*his last sigh*," and peace and good government shall again dispense their blessings.

It is quite certain, however, that the United States army has contended with great and serious difficulties in the character of the enemy and of the country—the wild man and the wild woods—against which they have been operating. It is equally true that there have been examples of valor and achievement characteristic of, and creditable to, the American arms. History will remember the dauntless courage of CLINCH at the battle of *Withlacoochee*; she will connect the name of LEIGH READ with the ruins of the *Block-house* on the same stream; she will inscribe upon her pages, with a pencil of light, the names of TAYLOR, HEILEMAN, HARNEY, LEE, PIERCE, FOSTER, and FANNING.

Nor have the inhabitants of Florida, fellow-citizens, been wanting in their duty. HERNANDEZ, MILLS, WARREN, PUTNAM, COOPER, and HANSON, and their brave associates, animated by the same spirit that manifested itself at *Lexington*, *Bunker Hill*, and the *Coupons*, have obtained for our militia an enviable reputation. Ever fresh and green be the laurels they have gathered! *And there are others* whose names should be on our lips on a day like this. Alas! nothing that we can say, no praises that we can utter, can penetrate the gloomy tomb or “provoke the silent dust.” MCNEIL, CENTER, BROOKE, THOMPSON, MELON, WHEELLOCK, WILLIAMS, VAN SWEARINGEN, and WALKER, are sleeping the sleep of death in the wilderness. “Deep is the sleep of the dead, low their pillow of dust, damp and cold the couch of their repose: when, oh, when shall it be morn in the grave, to bid the slumberers awake?”

There are yet others, the mention of whom comes nearer to our own bosoms,—FLORA, GOULD, MARTINELLI. They were young and ardent spirits, with the promise of a bright career before them. The fond hopes of parents and friends rested in confidence upon them. In the very morning of their days they have fallen victims to the vengeance of the inhuman savage. Who could have thought that the date of their usefulness was to be so brief,—that the chill of death was so soon to settle upon eyes beaming with courage, hearts bounding with patriotism? They have “fought the good fight;” and to their bereaved friends, to their young companions in arms, the most soothing of all consolations remains:—THEY DIED FOR THEIR COUNTRY!

There are yet other names. I should have mentioned them before; and I hesitate now, because no words can give utterance to the feelings which belong to such a subject. When Leonidas fell with his noble Spartans at Thermopylæ, his countrymen erected a magnificent monument, with this inscription:—“Go, passenger, and tell at Sparta that we died here in obedience to her laws.” What more appropriate epitaph could be framed to impress upon the wayfarer the melancholy but heroic fate of DADE, GARDINER, FRASER, and their brave and devoted comrades? And yet the sculptured marble could not tell more faithfully the sad tale of their surprise and massacre than do the sylvan graves prepared by the hands of valor for the remains of the valiant. Often, overgrown with long grass and wild flowers as they are, and shaded by the lofty and murmuring pines,—often shall these mounds of the forest conjure up before the traveller’s imagination a vision troubled and bloody indeed, but resplendent with glory.

Judge Reid combined in himself an ardent fondness for literature and a high capacity for official employments. Among the warm friends who stood by him to the last with their influence may

be mentioned the late Hon. John Forsyth, unrivalled as a debater and diplomatist. In 1828, Judge Reid was chosen one of the Presidential Electors, and, with his Troup colleagues, gave the vote of Georgia to General Andrew Jackson for President, and to the Hon. William Smith, of South Carolina, seven votes, and to the Hon. John C. Calhoun, two votes, for Vice-President of the United States. On that occasion Gov. Forsyth wrote the following letter:—

EXECUTIVE DEPARTMENT, GA., MILLEDGEVILLE, November 21, 1828.

SIR:—I have the pleasure to inform you that you are chosen one of the Electors of President and Vice-President of the United States to which Georgia is entitled by the Constitution of the United States. Your presence in this place by 12 o'clock on the Monday preceding the first Wednesday in December next is required. You will be so good as to signify to me your acceptance of the trust conferred upon you, and to notify me of your arrival as soon as you reach Milledgeville.

I am, sir, your obedient servant,

ROBERT RAYMOND REID, Esq.,

JOHN FORSYTH.

Richmond county.

More than ten years afterward, while Mr. Forsyth was Secretary of State, he addressed Judge Reid the following very cordial letter:—

WASHINGTON, February 13, 1839.

MY DEAR SIR:—I have your letter of the 1st instant, dated at Tallahassee. What Col. White meant by saying that I *approved of his course toward you*, I do not understand. If he supposes me to have approved of any thing unfriendly to you, he is most egregiously mistaken. He has frequently conversed about you, and I have always agreed with him when saying kind things or expressing friendly sentiments toward you.

As to the now-pending questions in Florida, I have never exchanged with him a word about them, and am not sufficiently acquainted with the part taken by you and others on them to have formed any judgment that would justify a word that could be tortured into condemnation of your course. As to the postscript of your letter, I am not aware that there is any actual hostility to you in this place which would require either your own presence or the exertions of friends to counteract. But on the point of fact I am not able to speak confidently. I keep systematically aloof from all troubles but those that belong to my own duties, and have as little to do as possible with schemes of private interest or personal malignity. My ancient regard for you and yours, which nothing has occurred to impair, would have induced me to have apprized you if I had known of any thing attempted to your prejudice by open enemies or pretended friends.

Very truly, your friend and servant,

JOHN FORSYTH.

In the course of the same year it became the pleasant duty of Mr. Forsyth to forward the following commission:—

Martin Van Buren to all who shall see these presents,—greeting :

Know ye that, reposing special trust and confidence in the integrity and ability of Robert R. Reid, I have nominated, and, by and with the advice and consent of the Senate, do appoint, him Governor in and for the Territory of Florida, and do authorize and empower him to execute and fulfil the duties of that office according to law; and to have and to hold the said office, with all the powers, privileges, and emoluments thereto of right appertaining unto him, the said Robert R. Reid, for the term of three years from the day of the date hereof.

IN TESTIMONY WHEREOF I have caused these letters to be made patent and the seal of the United States to be hereunto affixed.

Given under my hand, at the city of Washington, the thirteenth day of December, in the year of our Lord 1839, and of the Independence of the United States of America the sixty-fourth.

M. VAN BUREN.

By the President :

JOHN FORSYTH,

Secretary of State.

By reference to the journal of Judge Reid in this memoir, it will be seen that the office of Governor had been sought for him, but that he had no very strong expectation of receiving it. It was certainly a compliment of high value. He was duly installed, and proceeded earnestly in the discharge of his Executive functions. It is said that in the course of his brief administration he vetoed several bills which had been passed by the Legislative Council, containing provisions which he could not approve. Of their details, or, indeed, of their general object, the author has never been informed. It is enough to say that he displayed firmness and gave offence to several who had previously been his friends. A gentleman who had seen these veto-messages assured the author that they were exceedingly able and well written. Perhaps copies might be obtained from the journals of the Council, or from the Executive Department at Tallahassee; but their insertion would swell this memoir to an undue length. Indeed, the leading measures and events of Gov. Reid's administration are unknown to the author. He may have seen fragments of them in the newspapers of the day, but no distinct recollection of the matter is now retained; therefore no comments will be attempted.

In 1840, he received a testimonial of which any man might feel justly proud. The signature of Judge Berrien gives it a melancholy interest, as both parties are now in the grave. A copy is subjoined :—

The GEORGIA HISTORICAL SOCIETY, incorporated December, 1839, at a meeting held in the city of Savannah on the fourteenth day of Septem-

ber, A.D. 1840, elected his Excellency Robert Raymond Reid, of Florida, to be an honorary member of said society; and, in testimony whereof, have affixed their seal to this certificate and caused the same to be duly attested.

JOHN MACPHERSON BERRIEN, *President.*

I. K. TEFFT, *Corresponding Secretary.*

WM. BACON STEVENS, *Recording Secretary.*

It is painful, and yet not altogether useless, to reflect how liable we are to calamity in the midst of honors and success. By reference to his journal, extracts from which are given in this memoir, it will be seen that Gov. Reid was delighted with the promotion of his son, Midshipman Reid, to the command of a national vessel in the Exploring Expedition, and also how his heart was wrung by the tidings of his loss at sea. As Midshipman Bacon, who perished at the same time, was also a Georgian, and has many friends who will ever cherish his memory, it is deemed appropriate to notice a memorial to their worth, of which the following is an account from the *Boston Mercantile Journal*:—

NAVAL MONUMENT AT MOUNT AUBURN.

A new charm is added to this sacred resting-place for the dead. A beautiful cenotaph of native marble has just been erected by the officers and scientific corps of the late Exploring Expedition to the memory of four of their promising young associates who lost their lives in the service of their country. This chivalry of feeling, which embalms the names and the memory of brother-officers, is a noble trait in the character of brave men, and is touchingly displayed in this plain but beautiful and appropriate monument, on which, under chaplets of exquisitely-wrought flowers, each forming the shape of an urn, is inscribed the following simple story:—On the first side,—“To the Memory of Lieut. JOSEPH A. UNDERWOOD, Midshipman HENRY, U. S. Navy.” On the second side,—“To the Memory of Passed-Midshipmen JAMES W. A. REID, FREDERICK A. BACON, U.S.N.” On the third side,—“This cenotaph is erected by THEIR ASSOCIATES, the officers and scientific corps of the U. S. Exploring Expedition.” On the fourth side,—“Lieut. UNDERWOOD and Midshipman HENRY fell by the hands of savages, while promoting the cause of science and philanthropy, at Mololo, one of the Feejee group of islands, July 24, 1840. Passed-Midshipmen REID and BACON were lost at sea off Cape Horn, 1839.”

The massacre of young Underwood and Henry was the most melancholy event of the whole cruise. They were murdered in sight of Lieut. Alden and his party, who were hastening to their assistance, but, unable to reach the shore with their boats, were obliged to moor them at the distance of a mile; and then, wading up to their waists, they fired on the savages as they advanced, and thus fortunately arrived in time to save the bodies of their comrades from the cannibals.

Passed-Midshipmen REID and BACON were on board the *Sea-Gull*, and sailed from Cape Horn in company with the *Flying-Fish*, commanded by the gallant Knox,—who, not liking the appearance of the weather, returned

into harbor. The Sea-Gull, having twelve or fourteen persons on board, proceeded, and has never since been heard of.

Lieuts. Alden and Johnson, with Mr. Drayton, of the scientific corps, were appointed a committee to carry out the wishes of their associates in erecting a monument to the memory of the departed; and they have performed the duty in a manner which cannot fail to give the highest satisfaction to all concerned. The cenotaph is an Egyptian obelisk, twenty-two feet high and four feet at the base, erected at the cost of two thousand dollars.

The reader will at once conclude that to a heart so affectionate as that of Gov. Reid, to a nature of such exquisite sensibility, this bereavement was indeed overwhelming. No attempt will be made to describe the anguish of a father on such an occasion. He continued to discharge his official duties and those of a citizen, husband, and father in his usual bland and faithful manner. But the last scene is at hand, and the earthly career of Robert Raymond Reid is soon to close.

On the 28th day of June, 1841, he was seized with fever at Blackwood, his residence, seven miles from Tallahassee. His daughter Rosalie was likewise ill under the same roof. Medical aid was called in, without effect; and, on the third day, Gov. Reid, with a tranquil spirit, yielded his soul to its Maker. Without knowing her orphanage, the gentle Rosalie, in her seventeenth year, followed her father to a better world the next day. On the 10th July, his grand-daughter, Rebecca Black, a lovely girl in her twelfth year, also passed away, and rested in the third fresh grave at Blackwood! It was indeed a house of mourning.

The death of Gov. Reid created a deep sensation in the public mind. He was a man of exalted qualities. Like Sir James Mackintosh, he never made wealth a principal object; and, like the distinguished Scotchman, though he figured with *éclat* in many public trusts, and also in letters and philosophy, he was a stranger to freedom from embarrassments. This matter preyed heavily on his spirits; and his soul was so elevated in its desires and aims, so far above selfishness, that he could never bring himself down to the methods commonly adopted to acquire wealth. His whole life was a struggle, a trying warfare between generosity of character and the actual condition of things to which he had to submit. He may have had faults; it is certain he possessed a heart of noble impulses.

Gov. Reid left a mass of papers, including abstracts of cases decided by him while Judge of East Florida, sufficient to fill a large printed volume. In the investigation of land-claims he

usually noted down the documentary title, then the proof, the points of law urged by counsel on both sides, and, finally, his opinion, supported by authorities. This course imposed on him much labor, as fully appears by the records he made out for his own use, which are, no doubt, the same in substance he reported to the President as by law required. In addition, Gov. Reid had a large collection of miscellaneous matter in the form of scrap-books, which he had cut from newspapers for twenty years or more,—some very curious and entertaining,—all serving as excellent materials for a publication which with proper arrangement could be made valuable and interesting. It is possible such a work may appear, under the direction of one who sustained a very dear relation to him.

The various offices he filled, in all of which he displayed ability, show the high estimation in which he was held by the public. He was very early in life a judge of the Superior Courts, then a Representative in Congress, Mayor of Augusta, Judge of the City Court, Elector of President and Vice-President, Judge of the United States in East Florida, and, last of all, Governor of the Territory. His record is a bright one for his children. May justice be done to his fame!

The following notice of his death appeared in a Tallahassee paper :—

Died, in Leon county, 1st July, 1841, the Hon. ROBERT RAYMOND REID, aged about fifty-two years.

Gov. Reid has held many important offices in this Territory and in the State from which he emigrated. He had been a member of Congress from the State of Georgia, a Judge of the Superior Court, and Judge of the Court of Oyer and Terminer for the city of Augusta,—of all which trusts he acquitted himself with honor and to the satisfaction of the people. He was an accomplished gentleman, mild and courteous in manner, possessing a warm and kindly temper, with a mind of the most cultivated order. He was a profound and learned jurist, and as an accomplished *belles-lettres* scholar he was surpassed by few in this country.

In 1832, he was appointed by President Jackson United States Judge for East Florida, and in 1836 his commission was renewed. He continued to hold the office of judge until December, 1839, when he was appointed by President Van Buren Governor of the Territory. Arduous and trying as was the latter station to one of his tender sensibilities, yet his official acts were such as will shed a lustre around his memory never to be dimmed. They are part and parcel of the history of Florida. In March last he was removed by Gen. Harrison, then President of the United States.

Disgusted with public life, on his removal he resolved to retire from it and devote the remainder of his days to the duties of his profession, for

which his talents and legal acquirements so eminently qualified him. But, ere he commenced the career marked out for himself, Death claimed him as his own.

Sound in understanding, elevated in morals, the model of the gentleman, bland and fascinating in his manners, he was an ornament to society, with few his equals, none his superior. Death has left a void, an aching void, which naught can replace. The kind, indulgent father, the affectionate husband, the lenient master, he shone within the precincts of the domestic circle.

But the brightest spot in his existence, we conceive, was as President of the late convention at St. Joseph. In 1838, the Legislative Council of this Territory passed an act authorizing the people to elect delegates to a convention to frame a Constitution preparatory to entering into a State form of government. The body convened, and he was elected its President. There is sublimity in the sight of a people assembling in their primary capacity to devise measures for governing themselves. Such a spectacle seldom presents itself, and for the first time in our life we saw it in Florida.

There was, at that particular juncture, a severe contest raging between the aristocracy and the people,—between the Money-Power and the Democracy,—each contending for the mastery, each resolved to do or die. Fierce and angry discussion, stormy and turbulent debates, arose; and it was then the master-spirit of ROBERT RAYMOND REID displayed its power. With an eloquence peculiarly his own, he enforced his arguments with thoughts that breathe and words that burn, and the excited passions of men sunk resistless before his fervid eloquence. He, with his colleagues, kept the convention together, which was often threatened with a dissolution; and the result was, instead of a disgraceful act, that splendid production of human genius and combined wisdom, THE CONSTITUTION OF FLORIDA,—an imperishable monument, on which is engraved, as in letters of brass, all that the world has ever done for liberty.

Though a Democrat of the Jefferson school, he was no *partisan*. He had his political creed, but always stood aloof from the heat and excitement of the political canvass. His position among his fellow-men forbade it. In his own beautiful language, he “remembered that he was a judge among his fellow-men;” and although “he delighted to serve his friends, and desired to serve his country,” he took no undue measures to accomplish either.

He has gone to the grave, but the deeds of a well-spent life will live in the memory of posterity. He died a Christian. Light be the turf upon his bosom! Farewell, happy spirit.

“Thou art Freedom’s now, and Fame’s,
One of the few, the immortal names
That were not born to die!”

His public life was checkered with incident, and his latter years were saddened by domestic calamity. The loss of a promising son (the commander of the Sea-Gull) off Cape Horn, and the death of his eldest daughter, filled the cup of affliction, and brought him in sorrow to the grave.

Faults he had,—who has them not?—but they “leaned to virtue’s side,” and are buried with him. He died as he lived, an honest man,—God’s noblest work.

We were permitted to call him friend, and to his memory we give a friend's offering,—a tear.

To the few remaining members of his family we tender the kindest sympathies of our nature. May He who "tempers the wind to the shorn lamb" be the "husband of the widow and the father of the fatherless," and give them strength and resignation in this their day of trouble!

XXVI.

WILLIAM S. C. REID.

FOR the benefit of the younger members of the profession especially, the endowments of WILLIAM S. C. REID, and a few passages in his short career, are here set forth in the twofold light of encouragement and warning. From what the author has been able to gather from those who were acquainted with his gifts, his traits of character, the elevation of soul he possessed, and the rich oratory which rolled from his lips, it has fallen to the lot of very few persons to excel Mr. Reid in these respects. He rose with sudden light, maintained his brilliancy, and then closed his earthly prospects by sad indiscretions, which will be noticed from no motive to reproach the dead, but as a salutary admonition to the living.

WILLIAM S. C. REID, son of John Reid, was born in Hancock county, Georgia, on the 20th day of October, 1802, and received his principal education at Mount Zion, under the care of Nathan S. S. Beman and his brother, Carlisle Beman, two of the most noted and successful instructors of youth in the Southern country. He completed his course at Mount Zion in the spring of 1824, and proceeded immediately to the North with letters of high recommendation from his teachers. He pursued his legal studies at New Haven under the direction of Mr. Stapler, a lawyer of established reputation. In the fall of 1825, he returned to Georgia, and was admitted to the bar at Augusta. He located for practice at Clinton the ensuing year, and continued to reside in that village until his removal to Macon, six or eight years afterward. In the mean time he had given evidence of great abilities, and had become a source of joy to his relatives, especially to his widowed mother and his affectionate sisters, all of whom looked up to him as their greatest earthly comfort.

The author heard Mr. Reid speak only on one occasion at the bar, and that briefly to the court, in 1827, at Clinton. He distinctly remembers the tall, erect, and graceful figure of Mr. Reid,

his strong, mellow voice, with great harmony of inflection, and the chaste language which delighted all hearers. His future was then auspicious in the highest degree. No advocate had greater natural advantages; none better could scarcely be desired. Whatever contributed to render public speaking successful was at his command. True, it was not claimed for him, young as he was, that his legal attainments were very profound,—that he was master of Coke upon Littleton, or could lay open Shelly's case so as to be intelligible. No such capacity did he pretend to possess; nor was he bold enough to insinuate that Fearne on Remainders was as agreeable to him as the most popular romance, and as easily understood,—a taste which has been sometimes avowed by members of the profession who, from an excess of intellect or of vanity, seemed anxious to appear thus captivated. But in the province of an advocate, where the passions could be influenced, where the hearts of men might be reached, even to the controlling of their judgments,—in this relation Mr. Reid was most effective.

As a proof of his qualification, it may be remarked that he was associated with Col. Robert V. Hardeman and the Hon. Walter T. Colquitt in the prosecution of Elijah Barber, *alias* Jesse L. Bunkley, who was indicted in Jones Superior Court, at April Term, 1837, for cheating and swindling. This was a singular case, and occupied much time in the investigation. More than one hundred and thirty witnesses were examined, ninety-eight of whom were on the side of the prosecution. The testimony was conflicting,—many witnesses believing the defendant to be the genuine Jesse L. Bunkley, who was entitled to an estate of twenty thousand dollars; and perhaps a still greater number of witnesses and disinterested persons considered him an artful impostor, who had perhaps learned the story from the rightful heir before his death. The particulars of this trial have been published in pamphlet form. They are mysterious, to say the least. Barber was convicted and served out his term in the penitentiary. Some persons honestly believe to this day that the accused was the veritable Jesse L. Bunkley, who suffered wrongfully. But the greatest number believe—what is no doubt the truth—that Barber and others had conspired to obtain this large property by the course that was attempted.

Among the witnesses introduced by the prosecution were Robert Dougherty, now a judge of the Circuit Court of Alabama; Hugh A. Haralson, late a Representative in Congress, since deceased; Henry G. Lamar, formerly a Representative in Congress; and the Hon. Charles J. McDonald, since Governor of Georgia, and at present

a judge of the Supreme Court. The testimony of these gentlemen is here copied in the order in which it was delivered:—

Eighty-sixth witness, ROBERT DOUGHERTY.—I knew Jesse L. Bunkley at school at Athens. I entered college and left him in the grammar-school. I do not know how long he remained there. At that time, to enter college, a young man must have known arithmetic to the rule-of-three, English grammar, have read Cornelius Nepos, Cæsar, and the *Bucolics* and first book of the *Æneid* of Virgil, and the four orations of Cicero, and have read in the Greek Testament the book of John. From my recollection of Jesse L. Bunkley I cannot speak distinctly of him. I do not think Bunkley had as dark hair. I had a conversation with prisoner, and should say from that conversation he is not Jesse L. Bunkley. I asked him several questions which he did not answer satisfactorily. I think Bunkley could have recollected and detailed some of the circumstances I inquired of.

Cross-examined.—The circumstances that prisoner recollected were suggested by myself. He brought to my recollection the breaking of some globes at Shaw's book-store. I recollected a difficulty at Shaw's, but not breaking the globes. I don't recollect that the college-rules were ever waived except as to the qualification of age. Jesse L. Bunkley came to the grammar-school just before I left it. He entered college before I left, which was in 1826. I don't recollect why and when he left there, nor how long he was in college. It was a short time. Bunkley left college before I did.

87th witness, HUGH A. HARALSON.—I was at college from 1821 to 1825, when Bunkley was there in the grammar-school. I think he entered one of the lower classes in college. I knew him at that time. The requisites for admission were pretty much such as stated by Mr. Dougherty. I think Cicero's Orations were also required. My recollection of Bunkley is not very distinct. His hair was very light,—lighter than Mr. Hardeman's. My brother-in-law, Mr. Lewis, was taken for Bunkley from the lightness of his hair. Unless time changes men more than I am aware of, I should not take prisoner to be Bunkley. I saw prisoner in November, 1836. Among the company at Mr. Gibson's I could not distinguish prisoner as Bunkley. I asked him a number of questions. He answered me two or three correctly, which he might have answered without being Bunkley. I asked him several other questions, which he could not answer. He told me where old Zack Sims lived, where Mr. Thomas lived, and the situation of the spring. He could not tell me the number of bridges across the Oconee at Athens. There were two bridges; and he said there was one. He could not tell where the boys washed. It was a noted place. He tried to press upon my recollection the breaking of the globes, which I do not recollect. He said he had been gone so long and seen so many parts of the world that these things were erased from his memory. He said he had been to England, to London. He said he did not go ashore at London. He said he had made a proposition to Jesse L. Bunkley's guardian. He must have had a very treacherous memory to have forgotten these circumstances. He said, "Now, if I had been an impostor, do you suppose I should have made such propositions to my guardian?" Prisoner showed an unwillingness to converse in company or to converse aloud, in which I humored him. The whole interview resulted in my conviction that it was not Jesse L. Bunkley. I thought it strange that he should be so fond of a spree and not go ashore

at London. He described Jesse L. Bunkley's personal marks, and said they were on himself. I merely had this conversation for my own satisfaction.

Cross-examined.—Men are often deceived in regard to identity. I may possibly be deceived now. My mind is made up from the circumstances detailed in the conversations with prisoner. The tendency of light hair is to become darker, but not black, according to my observation. I did not go to his room, and have had no more conversation with him. His anxiety to go to his own room was one of the circumstances that induced me to think he was not Bunkley. My opinion is formed more from circumstances. I asked prisoner to mention the names of some of his classmates. He mentioned but three in college. He could recollect no more. Pryor Green, a Mr. Shelman, and Ned Hill were the three he mentioned. He recollected but one of the professors.

89th witness, HENRY G. LAMAR.—I was intimately acquainted with Jesse L. Bunkley from 1817 or '18 till 1825, when he left here. He was almost daily at my office when in town, and I noticed him a good deal. I think I should recognise his features if I were to see him; and I do not see the first feature of prisoner that revives my recollection of Jesse L. Bunkley. I do not recollect very well names and dates, but do well recollect countenances. I saw this year, in Alabama, a gentleman I had not seen for twenty years; and I knew him. My recollection is best of the general expression of countenance. The complexion of hair, color of the eyes, and form of the face, of prisoner, differ entirely from Bunkley's. Bunkley's eyes were darker and the expression different. His eyes were fuller than prisoner's.

Jesse L. Bunkley, from hearing me deliver an oration, could repeat several sentences in it. He borrowed it and kept it a week. He was at Milledgeville while I represented this county, and had to borrow money from me to pay his tavern-bill. The first time he met me afterward he apologized for not paying it. When I entered prisoner's room he called Judge McDonald Peter Williams, and said he was very sick. He said he had no recollection of me. I asked him if he did not recollect of a lawyer in Clinton, Jones county, of my name,—Henry G. Lamar. I asked him a number of circumstances respecting myself and family, none of which did he recollect. He said he recollected a little, dark-skin, chunky man named Isaac Harvey, that married old Tom Napier's daughter, that loaned him a ten-dollar United States bill. He did not recollect my own brothers, but recollected John T., Mirabeau, and Bazil Lamar.

This closed the first interview. John T. Lamar, Bazil, and Mirabeau, previous to my conversation with prisoner, had been to Texas, and Isaac Harvey had been to Alabama. Jesse L. Bunkley differed in politics from his family, and took the Troup side in my favor, and would tell me the objections urged against my election.

Cross-examined.—Prisoner did not tell me how he knew Mirabeau Lamar and others. He said nothing about what he knew of them. I have seen men change. I think Jesse L. Bunkley's face was rounder than prisoner's. Jesse L. Bunkley's beard was light, but had not assumed a fixed character. Hair light at eighteen or nineteen changes darker by thirty years of age. It was my first and is my last impression that prisoner is not Jesse L. Bunkley. I cannot recollect that prisoner stated that John T., Mirabeau, and Bazil Lamar lived in Jones county. Isaac Harvey did marry Napier's daughter. I think she died during the war, or at least before 1817, and that Harvey had in 1817 married his second wife.

96th witness, CHARLES J. McDONALD.—I knew Jesse L. Bunkley shortly after June, 1818, saw him frequently, and, from that time till he left, knew him intimately. I do not think prisoner to be Jesse L. Bunkley. Col. Lamar and myself called to see him and requested that he should not be told who we were. He called me Peter Williams. He was asked if he knew either myself or Col. Lamar as attorneys at Clinton, and if he remembered Lamar's lending him ten dollars in Milledgeville. He did not recollect these, but he recollected a little stumpy fellow, named Isaac Harvey, that loaned him a ten-dollar United States bill there, and that he married Major Napier's daughter. He did not know either myself or Lamar. He said he thought he had some indistinct recollection of Jim Lamar's going to the Legislature from Jones. He said he knew some of the Lamars that lived in Jones county,—John T., Bazil, and Mirabeau. Prisoner complained of being sick, and said perhaps he could give us more satisfaction in regard to these matters at a future day. I never knew of John T., Mirabeau, or Bazil Lamar living in Jones. I don't know much about Jesse L. Bunkley's education. He had been at school enough, if he had attended to his studies, to be a pretty good scholar.

Cross-examined.—I did not call on prisoner again. I think he said something about one of the Lamars' father living above Milledgeville. I am not distinct in this. I don't think I asked him a question. I suggested questions to Col. Lamar. Mirabeau Lamar's father did live above Milledgeville, on Little River. I think Jesse L. Bunkley's face rather rounder and fuller than prisoner's,—his eyes yellow, his hair not as dark as prisoner's. Time may have had some influence on it. His nose not so prominent as prisoner's; his complexion rather sallow, though not very dark.

Mrs. Lowther, the mother of Jesse L. Bunkley, testified that she had several conversations with the accused, and called over many incidents—some very peculiar—which her son must have recollected, but the prisoner had no knowledge of them. She was fully convinced, from his appearance and other circumstances, that he was not her son. She produced in court a letter which the prisoner said he had written her from New Orleans. As a curiosity *from the pen of a professed collegian*, an extract is here given, with the spelling, punctuation, and other *beauties* preserved as they appear in the original:—

NEW ORLEANS PRISON, December 20th, 1833.

DEAR MOTHER:—I' take the pleasure of writing A few Lines to you to convince you of my being your own child tho it A pears that its your wish to dis own me for it the Reson why I cannot tell if it aint for my past folly things thats past and gone I' know that, I' have not treated you as A child aught to A mother and the Reson why I' have not answered the questions you put to me is be cause I was afraede of things thats past you always feal near to me as a mother you know my mis forchans in that cuntry which Lyes frech on my mind but that subject I' will quit and turn to other things your maden name was Elizabeth Latmon and your mother a fuallen and after the deth of my father you marred James Billingslea and myself never could agree which was one grate cause of my mis forchans and as for whare I' went to school was to Clinton, Eadanton, Athans there was discharged for playing cards then my mis for chans

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commence you well Remember the promisses I made to you and Brother Wm, D, then promises was then shortly after I' got to this cuntry I' got in difficulty with A spanard and was forst to Leave it I' then went to mishigan canaday and the spanish cuntry

* * * * *

In the course of her testimony, Mrs. Lowther said:—

My maiden name was Slatter. I was acquainted with my son's handwriting. I was satisfied that this letter was not in my son's handwriting.

Cross-examined.—I do not consider that this letter was from my son. I never received a letter after 1825 but this one. I heard the report of my son's death (I think) in 1827. I did not hear the report shortly after this time of my son's being in life. I heard a person, and persons, speak of my son's death, detailing different circumstances.

My son left me because he wished to travel. He was a young man of fortune, and did not wish to be confined. I did not know that my son was threatened with a prosecution before he left here. I do not know that my brother threatened him with a prosecution. I understood that he was confined for some offence in Augusta. I heard this from authority I confided in. He went away shortly after his return from Augusta. I do not recollect the precise time.

He left but one school (and that was at Athens) on account of misconduct. I do not know that he was under any offence when he left here. Capt. Parrish bought the horse, paid for him, and he rode him off. This was after a difficulty about the horse with his uncle. My son came back with his uncle, Shade Slatter, with the horse. I never heard Slatter threaten to prosecute my son. He stayed his time out at Eatonton school.

I did not answer the letter I received from New Orleans. I did not answer my son's letter, because he told me not to write till I heard from him again.

There was a mark on my son's leg immediately below the knee-pan. Prisoner shows a mark some distance below the knee. The scar on my son's knee was made by a drawing-knife. Prisoner knew nothing about how it took place. The prisoner's mark is considerably below the knee-pan. When I heard that the prisoner had such a mark, I stated that my son had a similar mark on his leg; but this on prisoner did not correspond when I saw it. I had several conversations with prisoner. At the first, Major Smith was present. In this conversation I admitted there was a mark on my son's neck, which, on examination, was not on the prisoner's. The scar on my son's neck was occasioned by his riding on an old tree: he fell, and a limb struck him under the jaw and made a large scar. The scar was about as long as the first joint of my first finger.

I do not recollect that my son was ever set to ploughing after being brought home from school. I have several times made him plough for my own amusement.

I never heard of my son's being alive till Major Smith's receiving letters. The first report I heard of my son's being alive was when, in Mr. Atwood's store, I heard that Major Smith had received a letter from him.

I knew of no other mark on my son but those mentioned when he was a child. My son had no mole when he was a child. I have never said to any one that he had moles. Some of my children have dark spots; but I do not call them moles.

I invited prisoner to stay at my house and convince me that he was my son. He could tell me nothing. He asked me if I recollected a

difficulty between him and Capt. Billingslea, and that I took the carving-knife to separate them. He said this was at supper-table. I told him I recollected a difficulty, but nothing about a carving-knife: that we had no use for a carving-knife at supper. I have never so stated to any person.

Having transcribed so much of the evidence given for the prosecution, showing that the prisoner had falsely personated Jesse L. Bunkley, it is deemed proper to select a passage or two from the defence:—

28th witness, WILLIE PATTERSON.—I knew Jesse L. Bunkley while he lived in Clinton, and, till he left here, often saw him. I knew him as he passed as well as I knew other boys. I used to deal with William D. Bunkley, and he was very kind to me. I knew Jesse in his father's house and around his table. Knew him as a school-boy, and, after his father's death, at his mother's house. I knew him till he went away. I believe prisoner to be the same man. I have never asked prisoner a question, nor he me one. I understood he was coming out from Mr. Gibson's, and I stood about ten steps from the door. When he stepped into the piazza, he brought to my view old Wm. D. Bunkley from the upper part of his face, from his eyes up. I do not think his cheeks as full as they used to be. I think the color of his skin when he went away a little swarthy. I don't recollect the color of his eyes. I think he resembles his father as much as his brother, Wm. D. Bunkley. Before I saw him, I thought his hair of a lightish color. It is darker. When a boy, I used to be called a flax-headed boy. It has since turned nearly black. Jesse L. Bunkley was a wild, bad boy; in all bad company. I have seen him at my house more than once. Prisoner has a family-likeness to the Slaters and James Bunkley.

31st witness. The person of prisoner exhibited before the jury.—He stands erect, walks, and exhibits his finger,—the forefinger of the left hand. A small scar on the neck under the right jaw. A scar on the side of the left leg, one inch and a half from the knee-pan. Shows his feet and his shin to look for the marks of the snake-bite. Some scars are found on his right leg, one on the side of the right knee, and one on the side of the calf of the leg, near the shin-bone.

Considerable testimony was offered in behalf of the prisoner, tending to show that he was a different man from Elijah Barber who was known in Upson county, and in the Florida War of 1835 and previously, as a wagoner who hauled lumber from Groce's mill, near Macon, in 1824 and '25. He could not write. Many witnesses concurred in the opinion, from what they knew of Jesse L. Bunkley from his childhood up to the time he left Jones county in his twentieth year, (May 17, 1825,) that the prisoner was the identical Jesse L. Bunkley.

During this long and complicated trial the Hon. JOHN G. POLHILL, Judge of the Ocmulgee circuit, presided. Several questions were raised on the evidence, which were well decided on reason and authority. Should the author succeed in procuring the

necessary data, a separate memoir of Judge Polhill will be prepared, in which this case and its further intricacies—especially on the legal points involved—will be noticed more in detail, for the interest they afford to the profession. At present, very little more will be said, except in relation to the part devolved on Mr. Reid as of counsel for the prosecution.

Col. Hardeman justly wielded great influence in his (Jones) county, and was a lawyer of acknowledged ability even in 1837. His reputation has been much increased since, and he now presides in the same circuit as Judge of the Superior Court. Judge Colquitt had a proud fame more than twenty years ago. His effort on this trial was worthy of his genius and skill as an advocate. Mr. Reid, though somewhat his junior, was perhaps not less gifted. His argument was what might have been expected on the occasion of a stupendous fraud worked by the nicest machinery, which required analysis and energy to unfold. It was the last exhibition of Mr. Reid's oratory at the bar on a scale commensurate with his powers. Only a few additional remarks will be indulged to close this memoir.

The author considers it his duty, while performing an act of justice to the good qualities of Mr. Reid, also to notice an irregularity which grieved his friends, impaired his usefulness, and hastened his death. In his convivial associations he acquired a taste for wine, which easily led to stronger drink. At this period, before the habit had become so fixed as to defy all hope of reform, Mr. Reid had a love-affair, it is said, which resulted contrary to his desires. The fault, perhaps, was not with the young lady on whom he had placed his affections, but with some of her relatives. Of this, however, no particulars have been furnished the author; and, even had they been at his command, he would decline introducing them in this memoir. The fact he feels at liberty to state, however, that the disappointment had a very unhappy effect upon Mr. Reid's mind. He regarded it as a death-blow to his felicity, and committed the error of flying to the bottle for relief, with an avowed resolution of ending his troubles at the sacrifice of his life. Although he attended to his law-office and went through the usual routine of his profession, yet his lofty nature had stooped to intemperance, and his fate was written. He died at the house of his mother, in Monroe county, July 23, 1839, in the thirty-seventh year of his age.

Thus passed away, in the meridian of life, a man of intellect, education, and rare gifts of eloquence. He fell a victim, became lost to himself, to his kindred, to his country; and may his pre-

mature death impress all young men who may ponder it with wisdom and firmness to avoid the snare which deceived and ruined so much genius and worth!

XXVII.

ROBERT RUTHERFORD.

HIS father, Col. John Rutherford, was a soldier of the Revolutionary War, removed from South Carolina in 1783, and settled in Wilkes county, Georgia. At different periods he was surveyor of the public lands, justice of the County Court, member of the Legislature, and Elector of President and Vice-President of the United States. Until 1784, the Ogeechee River was the Indian frontier. In his capacity of surveyor, he was much engaged in exploring the country between the Ogeechee and Oconee Rivers. When the Indian troubles became somewhat quieted in 1790, he removed to Washington county, and settled near Sandersville, where the first Latin and Greek school in all that region was opened by Mr. John Hamilton Posey as tutor, under the patronage of Col. Rutherford.

ROBERT was born April —, 1786, in what was then Wilkes, now Warren county. In 1799, he entered the school of Mr. Posey, with whom he remained three years; and then, March 4, 1802, with his elder brother, Williams Rutherford, (who is still living, June, 1857,) he became a student of Franklin College, under that eminent scholar, Josiah Meigs, the first President of that institution. The two brothers increased the college-roll to half a dozen. About six months afterward, the first class organized, consisting of twenty, including the brothers Rutherford, two sons of Gov. Irwin, two sons of Gov. Jackson, William W. Williamson, Gibson Clark, Gen. Jephtha Harris, and the late Judge Clayton, all of whom, with the exception of Williams Rutherford, graduated in 1804. During the college-life of this class the "Demosthenian Society" was formed, of which Robert Rutherford became a member.

Shortly after graduation, he commenced reading law in the office of Judge Skrine, at Sandersville, where he remained a year or two, and then, in the spring of 1806, went to the law-school of Judge Reeve at Litchfield, Connecticut. In 1807, he returned, was admitted to the practice of the law, and established himself permanently in Milledgeville. Here, in 1808, the happiest event of his

life transpired,—his marriage with the reigning *belle* of the day, the beautiful Miss Elizabeth Howard. Now began that prosperous career which never faltered to the end of his life. His frame was made for endurance, toil, and activity. He was the pioneer lawyer of the frontier-circuits, grappling with all difficulties, and driving his conquests over all adversaries by a bold, manly competition which despised artifice of any kind. He would not have success by unfair methods. Himself open, direct, courageous, it was easy to get along with him in a similar way; but he maintained a resolute stand against all duplicity or evasion in an opponent. He repudiated all fellowship with tricksters, in the profession or out of it.

The qualities of Mr. Rutherford when a boy were peculiar, pointing to that manhood which became extraordinary. The author has before him an original letter from Williams Rutherford, Esquire, to Major Joel Crawford, drawn out for this memoir, in which the writer says:—

Robert Rutherford was remarkable in many respects. He manifested in boyhood such a readiness of thought and action, without any seeming concern on the subject before him, that his father resolved to give him all the possible advantages of education. His father, however, was discouraged and out of patience with his frolics, his playful habits, even while he was at the Latin school. He was never studious or attentive to any thing. I heard our father declare to our mother (when noticing some of his scenes with other idle lads) that “he would be willing to see him drop down dead; for that all his endeavors to make a man of him would be in vain.” Nothing but the reasonable passing off and comparing with his classmates at examinations, in spite of Robert’s total want of attention to his studies, determined (I am sure) a rigid and stern father still to persevere and send Robert to college. I have heard our father remark that it was truly astonishing how he could recite so well, and that, under the circumstances, there was something to encourage.

He was sent to college, and by slow degrees, in the Junior year, his frolicsome term (he was never vicious) seemed to abate, when his after-character for determination, indomitable courage, and firmness became manifest, with a degree of attention to the finishing of his college-studies altogether new and remarkable, first perceived in his correspondence with his immediate family and friends. That carelessness of his person, fearing no injury to it, shunning no danger, *when a boy*, seemed to have matured in manhood to the most daring yet unostentatious courage belonging to the human family. I must say of him that, had I a dangerous attack to make, and *unknown hazards to meet*, I would have selected Robert Rutherford as a *right-hand man* before any one else with whom I ever was acquainted. Robert may be said to have had the rare talent of managing to advantage many “irons in the fire” at the same time. He certainly could get quicker out of one sort of business, and be wholly absorbed in another in less time, than any one of his day. That same quickness of thought and that talent enabled him to serve himself and more friends at the same time than anybody else. Here I will relate an anecdote of him, or incident, perhaps in your recollection. I will give to you the

names of the parties concerned. I mention the circumstance as a proof of his ready turn and useful bravery to preserve both himself and *his friend*.

It was during your practising law together when, at the commencement of a session of the Legislature, Seaborn Jones, for some cause, was induced to challenge Gen. John Scott. Robert* may have borne the challenge. Scott answered, pretty promptly, that he would give him satisfaction with *broad-swords*! Jones, a small man, complained to Robert, that Scott, a tall and strong man, had chosen swords; that it was *not fair*. Jones said, moreover, that *he had been shoulder-stiffed*, &c. Robert said to him, "*I will relieve you.*" He found Scott in the lobby, and, taking him aside, said to him, "Gen. Scott, you must fight Jones with *pistols* or adopt me as the *swordsman*." Scott flounced, and declared he had no quarrel with him, (Rutherford,) and he should only fight Jones; that he had given him the weapons, &c. Rutherford left him by saying he would only give him *one short hour* to make his election which he would fight; and it is a fact, in that same short hour, that Scott procured a "*court of honor*," (Col. Edward F. Tatnall, then with his arm in a sling from just fighting a duel, was one of them,—all, I think, of the Legislature,) who got the parties together, or heard them, and settled the difficulty without the *broad-sword fight* so alarming to Jones.

My bright recollection of my brother's virtues and estimable character has induced me to say so much; and your own knowledge of the man will decide whether I have written with any bias,—all of which I submit to be used as your judgment may direct.

From a gentleman well known to the people of Georgia, who has served them in Congress and is now a successful cultivator of the soil, (Major Joel Crawford, of Early county,) the author received, in January, 1851, a communication furnishing particulars about Mr. Rutherford and closing as follows:—

In the fall of 1822, whilst attending the courts of Pulaski and Twiggs, he was unavoidably exposed to the malaria of that insalubrious region, and, before reaching home, experienced symptoms of remittent fever. The malady baffled the best medical skill of the neighborhood, and within a few days his highly active and useful life was brought to an untimely end. The death of few men could have occasioned deeper or more widely-spread grief. No man ever had sincerer friends; no man better deserved to have them. Wholly destitute of ostentation, he combined in both the moral and physical man almost every quality which an honorable friend could admire and love. Punctiliously fair in all his business-transactions, scorning those contemptible shifts and prevarications on which folly and weakness are so prone to rely, he sought wealth and fame by no other means than honest industry, of which his brief life was one continued and brilliant example. Mr. Rutherford's kindness of heart and high-toned probity were acknowledged by all who knew him; his generosity and courage were never questioned.

Robert Rutherford was an American republican of the Jeffersonian school. He had implicit faith in the capacity of his *own countrymen* for self-government, and enjoyed among them a popular favor which an ambitious man would have prized most highly. But he never sought office, nor would he

* He was brother-in-law to Col. Jones, they having married sisters.

permit his name to go out as a candidate,—though no citizen took a more decided part in pending elections, or rejoiced more at the success of a favorite ticket.

The memory of Robert Rutherford is still fondly cherished,—his high qualities and professional zeal recounted by the old citizens as an example to young men who thirst for distinction in the same path. It was truly a public misfortune that he died so early,—in his thirty-seventh year,—an age which seems to be fatal to men of rare gifts. Burns, Byron, and our own Lamar sunk thus prematurely into their graves.

XXVIII.

ELI S. SHORTER.

AMONG the proud intellects of Georgia at any period of her history, none was more commanding, none more transparent, none more vigorous and subtle in analysis, than that of the Hon. ELI S. SHORTER. He was indeed a man of a century. With blemishes and attractions of extreme degree, his character was a sort of "armed neutrality," that conquered rather by the exhibition of strength than by actual conflict requiring all his powers. He lived and died without a knowledge of his gifts. True, on many occasions he rose to an antagonism absolutely overwhelming on legal subjects where pure reasoning was to prevail. The author has witnessed efforts of this description, and remembers distinctly a trial of strength with the late Judge LAMAR, in Twiggs Superior Court, where the essentials of a deed to fulfil a condition precedent as to lawful title were drawn in issue on a bond. The two advocates were both at the very head of the profession,—both deeply learned in the law, astute, ambitious,—with pride of character to stimulate their energies to the utmost. They met with mature briefs. After a couple of hours in argumentation, earnest, logical, and apparently of equal force, Judge Lamar courteously admitted that his opposing brother was not to be vanquished,—that there was a mysterious faculty of recuperation in him which defied all attacks to the right, left, or centre; that, when beset with difficulties most appalling to another, he would appear in new shapes, with sword in hand, severing the cords with which his adversary had bound him. It was a

pleasant scene: both gathered laurels; but which was victor is not now remembered after a lapse of more than twenty years.

This method of presenting ~~his~~ subjects full grown in the first paragraph is not the usual course of the author. The gentleman whose abilities and career are now to be enlarged upon has been made an exception, because the first idea impressed by his name expands into homage for a mind which never reached the summit of its capability, because it was diverted from the congenial path of forensic glory and made the drudge of a mistaken though generous spirit of accumulation in its latest efforts. For this fault—no less a misfortune to the public than to himself—a very natural excuse may be urged. He set out in life poor and friendless, as will be seen in this memoir; and no doubt his manly sensibilities often bled at the indifference with which portionless young men are received by the world. He then resolved, in the spirit of a hero, to work his way up and stand on a level with the haughty superiors who had slighted his claims to respect and patronage because of his poverty.

Having said thus much, the early life of Judge Shorter, his struggles and prosperity, as they occurred, will be shown in a letter which the author received from the late Gen. REUBEN C. SHORTER, his only brother. The grave invests such communications with a sanctity which in the present case forbids abridgment, though it was not intended for publication, and part of it was no doubt confidential, especially where the general speaks of his own situation and the aid he afforded his brother ELI at the beginning. It is a good letter, and will repay an attentive perusal:—

EUPAULA, ALA., 5th September, 1851.

DEAR SIR:—Your kind favor of the 23d ult. has been received, and I proceed to answer your inquiries relative to my lamented brother, Eli Sims Shorter, as well as I can.

When (in December, 1836) he died, I was on the road with my family moving from Monticello, in Georgia, to this place. The numerous letters which I had received from time to time were left behind when I moved, and fear that they have been destroyed or mislaid. I will inquire for them, and, if I procure any which I think may be of use to you, will forward them with pleasure. I expect to go to the Agricultural Fair at Macon in October, and shall go *via* Oglethorpe; and, should I be able to collect any information of importance more than I now communicate, I will take it with me and forward it to you, should I not have the pleasure of seeing you in Macon.

My *only* brother, Eli Sims Shorter, was born in the State of Georgia, and, I *think*, in 1792, which made him about forty-four or forty-five at the time of his death. I have sent your letter to his son, R. C. Shorter, of Columbus, and requested him and his mother to give you the date of his birth if they can.

My brother and myself were left orphans, losing both our parents when

he was about five and I about eleven years of age; and neither of us inherited one cent of property. I, being the oldest, got a limited education, by hard work and close study; and, in 1809, I commenced the practice of medicine, having attended lectures in the Medical University of Pennsylvania, in Philadelphia, in the winter of 1808-09, after having read medicine about two years in Washington, Georgia. Being successful in my profession, I was able, and sent my brother to school in 1809, 1810, and part of 1811. The last school to which he went was the Meson Academy in Lexington, Oglethorpe county, where he acquired a good English education and read the common Latin books, but knew nothing of the Greek language.

In 1811, he quit school and commenced reading law in my medical office in Monticello. I purchased him the necessary books to read, and he was directed in his studies by William Cook, Esq., an attorney of that place. Being fully sensible of the necessity of close and persevering study, he lost no time in idleness; and, possessing uncommon powers of mind, he progressed so rapidly in his studies that in February, 1812,—about seven months after he commenced reading law,—he was admitted to practise law by the court held at that time in Monticello. In the latter part of the same month he removed to Dublin, Laurens county. By his energy and talents he very soon succeeded in getting a lucrative practice; and, when he removed to Eatonton, his qualifications and his success in his profession secured him a good practice throughout his circuit. I am not certain when he moved to Eatonton; but that information you can procure from Dr. Joel Branham and William Turner, Esq., of that place, to whom I recommend you to forward your circular, and they will, I hope, give you valuable information; and they can inform you when he was first elected to the Legislature. He married Miss Sophia H. Watkins, of Elbert county, (a sister of Mrs. Stephen W. Harris,) in June, 1817.

After he had been living in Eatonton a few years, there was a great pressure in monetary matters, and numerous suits were commenced for the collection of money; and I recollect receiving a letter from my brother at the close of return-day to the court, in which he stated that within the last month he had brought about four hundred and twenty cases to the next court in Putnam county, in which his fees would be worth more than seven thousand dollars,—tax-fees not included; and at that time the attorney's tax-fee was four dollars in each case. He closed that letter by saying, "May I have a long life of such months!" Should I find that letter, I will forward it to you.

I would advise you to write to Rev. L. Pierce, Dr. Thos. Hoxey, and H. S. Smith, Esq., of Columbus, and send them your printed notice, and I hope they will give you valuable information, &c.

Should I see you on my visit to Macon the last of next month, it will give me great pleasure to have a free and private conversation with you, in which I could give you some important information relative to the benevolence and goodness of heart which my dear brother possessed, (which I have not time to write,) from which you would collect particulars to further your object.

I am now in my sixty-seventh year of age; and I am sensible that in writing I am, like most other old men, too prolix to be interesting,—which error you will please excuse and attribute it to the proper cause.

I am not only gratified but rejoiced that you have undertaken to give to the public such a history of distinguished jurists of Georgia as your plan contemplates.

My brother was always a warm friend of deserving young men just entering upon the duties and labors of life, in aiding them by his counsels, and money too, if needed. Many distinguished men now in Georgia remember my brother with gratitude. If you have not written Judge Warner, please do so; he will be able to give you much relative to my brother.

Wishing you happiness and prosperity in all your efforts, I am, very sincerely, your obedient servant,

REUBEN C. SHORTER, Sr.

The fortunes of Judge Shorter are now upward,—more than eight thousand dollars in fees at one term of the court, as will appear by the foregoing letter, adding the amount of tax-fees, and perhaps half that sum for many years together at his own door, besides his circuit-practice. Such prosperity was enhanced by his success in political life about the same period, as a Representative in the Legislature from Putnam county,—a post he continued to occupy just so long as it suited him. In 1822, he was elected Judge of the Superior Courts of the Flint circuit, and presided at the first term ever held in the city of Macon, in March, 1823.* In 1825, he was succeeded by Judge McDonald. Judge Shorter resumed the practice of the law with his former success, and visited new courts, even as far south as Pulaski county. His partner was the late Charles P. Gordon, with whom he continued probably until his removal to Columbus, where the judge found ample scope for his financial abilities as the first President of the Farmers' Bank of Chattahoochee. About this time the Indian reserves of land in East Alabama excited speculation, and several companies were formed by men of capital to buy up those rights extensively. Judge Shorter was in the movement, and acted a leading part. Some of his letters on the subject, urging his agents to activity, were afterward published by his enemies, who became such, probably, from his having occupied the field to their exclusion or in some way interfered with their plans. Or it may be more just to say that the letters were laid before the public by connivance of agents who had been directed by the United States Government to protect the Indians from imposition and fraud. At all events, some incautious and, it must be confessed, some very imprudent expressions were used, which were turned against Judge Shorter and made him appear as boldly unscrupulous in his efforts to obtain land from the Indians.† He bought largely,—probably invested fifty thousand dollars, more or less: the precise sum is not ma-

* White's Historical Collections, p. 272.

† This matter was referred to by Gen. Cass in the U. S. Senate, May 19, 1852. See Appendix to Congressional Globe, vol. xxv. p. 596.

terial, and none is pretended to be given. The lands have since more than quadrupled in value, forming a productive and densely-populated region of Alabama; but it is believed the companies did not realize any extraordinary profits, after deducting expenses. About the most critical period in these adventures, Judge Shorter died, leaving his estate, large as it was, considerably embarrassed.

The fact of such speculations is here mentioned as necessary to truth. Persons at a distance not acquainted with Judge Shorter, or ignorant of his many noble qualities, were apt to regard his character with an eye of prejudice. The author knows this to be so, as he was residing in the western part of Alabama when the letters referred to were made the subject of reproach. Now that he has gone to his final account,—and so has Col. John B. Hogan, of Mobile, the United States Agent who caused the letters to be published with no gentle commentary,—it is fair to say that Judge Shorter was entirely above fraud in his transactions. It may be that he saw the incompetency of the Indians to sell their lands to advantage, or even to understand what a sale meant, and that other men were improving the opportunities of gain, while money, little or much, was of no real benefit to the Indians,—when Judge Shorter stepped into the arena for his share of the spoils, paying as high prices as any, and using no worse methods. In this light, with neither praise nor censure, let his memory be held touching these land-operations. Even the illustrious Patrick Henry is said to have participated “in the profits of the Yazoo trade,”* as did many other honest men.

It is not to be disguised that Judge Shorter made wealth a principal object. He declared that it was a “noble pursuit,” and eagerly did he engage in the struggle for it. He knew it gave power, for Blackstone so taught him. Besides, he insisted that comfort was desirable, and could be had in perfection only from wealth. Whatever his ideas or feelings on the subject, he was certainly a good manager of his finances,—never grovelling, always generous. His income was large; he valued his services high, and suitors were glad to procure them at any figure. Success generally crowned his efforts at the bar; and the *prestige* of his name authorized big fees.

In the midst of his professional harvest, reaping fortune and fame abundantly, he cast his eye again on the bench and became a candidate for Judge of the Ocmulgee circuit at the session of 1828, when he was opposed by the Hon. Thomas W. Cobb, who

* Wirt's Life of Henry, p. 419.

resigned his seat in the Senate of the United States with a view to the same judicial office. Both these gentlemen were popular with the Troup party, which had the ascendancy that year, and each exerted himself to gain the prize. No instance can be mentioned where intellect and address in competitors were so nearly equal,—of the highest order. The contest was between two giants. The author was at Milledgeville, and it was the only time he ever saw Judge Cobb, who was indeed an extraordinary man and a most delightful companion. Judge Shorter was elected by one hundred and twenty-four against sixty-one,—more than double. But the victory was succeeded by a sudden downfall.

In a few weeks, Judge Shorter transmitted his resignation to Gov. Forsyth. There was a cause: there was a church-investigation, there was feeling, there was agony, there was remorse. Let no further record be made.*

When the election to fill the vacancy came on, the Hon. Alfred Iverson, now of the United States Senate, then a Representative in the State Legislature from Jones county, so far departed from usage as to make an appeal on the floor in behalf of Judge Shorter for his re-election, to secure his great talents to the public as well as to soothe his wounded feelings. Whatever the aspect of the case, Judge Shorter received but a very small vote, and his rival, Judge Cobb, obtained the office. Thus passed away an occurrence which was considerably talked about at the time. But Judge Shorter was not the man to stay crushed. He was all hero: there was no despair in his nature. To use his own pithy words, "he cast off difficulty as a lion shakes the dew from his mane,"—a figure worthy of Napoleon. Another bracing expression cheered him from his youth,—that "there was more true glory in rising every time we fall than in never falling."

We find him the next year, 1829, again in the Legislature,—a proof that his fellow-citizens had not withdrawn their confidence. On the third day after the House was organized, the Journal (p. 35) states:—

On motion of Mr. Shorter,—

Resolved, That the Joint Committee on the Judiciary be instructed to inquire into the expediency of establishing a court for the correction of errors; and, if expedient, whether any and what alteration is necessary to be made in the Constitution of this State in order to effect the object, and that they report by bill or otherwise.

* See Judge Shorter's letter in the memoir of Judge Reid, p. 202.

The Judiciary Committee on the part of the House consisted of the thirteen gentlemen named,—Messrs. Haynes, Shorter, Iverson, Saffold, Dougherty, Bailey, Charlton, Warren, Hutchins, Warner, Greene, Pearman, and Hatcher; but the author has not been able to discover, from an examination of the Journal, any report or action of the committee on the subject referred. It is presumed that the measure had no favor from a majority of the committee, else there would have been some expression. At all events, it may be inferred from his motion that Judge Shorter desired the establishment of a Supreme Court at least sixteen years previous to its organization. The attempt to bring it before the public was in the highest degree laudable. Long experience of the evil—each circuit being a sort of judicial republic to itself, construing statutes, deciding principles of common law, and settling its own practice without comity to that of its neighbor republic—at last convinced the people that a court of appellate jurisdiction, correcting errors below, was necessary,—nay, the public good demanded it. It is much to be regretted that Judge Shorter did not live to witness the tribunal he strove to create. It would have been a rich field for his talents.

It may be said that, while his own manly exertions did much to gain the high position at the bar and in the public view which was generally conceded to him, he was indebted to his natural gifts still more. His presence was commanding. A forehead round, projecting, and expanded, with that beautiful arch so expressive of genius. Perfectly black, keen, flashing eyes, luminous with intellect, and capable of an intensity of gaze which riveted court and jury to his arguments. He had a slight impediment of speech, which seemed to add force to his style. A leading member* of the bar once remarked of this peculiarity in Judge Shorter that it made him more interesting than he would have been without it.

He possessed great vivacity of spirits on all occasions, and was fond of good jokes, even took kindly those at his own expense, and bestowed his wit and humor with no parsimony. The author recollects a little scene of pleasantry in court between Judge Shorter and William H. Torrance, Esq., which, to some extent, signified the character of both. They were opposed to each other before the jury. Mr. T. had made an excellent speech, and his side of the case appeared most likely to prevail. He had spoken with gloves on, as he occasionally did, to correspond with his

* Col. Hines Holt.

general neatness. Judge S. had wonderful tact in ridicule, though usually within the bounds of good taste. He began his reply by stating to the jury that his "brother Torrance expected to divert their attention from the weakness of his cause by a display of his peach-blossomed kid gloves, which, however suited to the drawing-room, did not materially assist an advocate in *handling* the intricacies of litigation." There was a general smile at his adversary's cost. When Mr. T. appeared in conclusion, he thus referred to the gloves:—"My brother Shorter can well afford to dispense with the aid which other men sometimes find it necessary to employ to conceal defects; for he has permitted you to admire his delicate, patrician, lily-white hands, which far surpass my gloves in softness and aristocratic pretension. I leave you, gentlemen, to decide which of us is entitled to your sympathy or your censure." The author is inclined to think that Judge Shorter "took nothing by his motion" except the hearty laugh which was always contagious from him.

Whether such an artifice was excusable or not, a joke played off in Putnam Superior Court, more than thirty years ago, has been related to the author by an eye-witness,* which is too amusing to be omitted. Judge Shorter and his brother-in-law, Hon. Stephen W. Harris, were arrayed against each other in a very important action of ejectment; and, as the court adjourned for the day, the presiding judge (the late C. B. Strong) announced the case as first in order the next morning. Shorter knew his danger, and made his best preparation. When the jury-hour arrived next morning, Harris was called, but did not appear. The court waited for him some half-hour or more, when at last he came hurriedly into court. Judge Strong said, "Mr. Harris, the court regrets that you have kept it waiting for you so long, and hopes that you will at once proceed with the case." Shorter, with a mischievous gravity, appealed to the court in behalf of his rival brother to this effect:—"Mr. Harris ought to be excused, as it was evident that he had used all possible expedition; for the court will perceive that in his hurry to complete his toilet he has put on his shirt wrong end upward,"—alluding to his enormous shirt-collar, which was only a full-grown specimen of the then-prevailing fashion. Being very sensitive, and the roar of laughter which filled the court-house deeply mortifying him, Mr. Harris lost his self-possession, became dejected, and, with all his acknowledged ability,

* Pleasant Lawson, Esq.

managed the case so badly that he lost it for no other reason. So much for a joke, as cruel as it was artfully applied. Harris found it difficult to forgive it.

Resuming the narrative, in the letter of Gen. Shorter already given mention is made of the kindness of heart toward the younger members of the profession for which his brother was distinguished. As proof of it, the author submits a letter which he received, as follows:—

EATONTON, 30th June, 1830.

DEAR SIR:—Your esteemed favor of the 15th inst. has been received, and should have been answered sooner but for my absence from home.

* * * * *

I am sorry to find you still subject to the "blues." You are a man of sound mind, good health, tolerable education, and good character. You have many friends, who will stand by you in adversity (should it come) as well as in prosperity. The field of enterprise is before you, the road to distinction is open, and you have only to fix upon your object, and industry, patience, and integrity will, sooner or later, enable you to attain it.

Look at the course which others have pursued. See what were their prospects when they began, and see what has been their end. What has been done by others who possessed not your advantages can surely, by the same means, be also achieved by yourself. And by all means accustom yourself to looking upon the *brightest* side of all your prospects and efforts. This will produce good to you in various ways. It will inspirit you to make greater exertions; it will give to your whole character a cast of benevolence; and, what is still more important, your heart will frequently be light and happy.

When I first settled in this place my prospects were gloomy beyond my power of description. I was young, illiterate, poor, and friendless; and, what was worse, I have been all my life a slave to bad habits, which have hung around me as heavy as millstones. I remained here about fourteen months, and during that time I received but *one fee* in the county, and that was only for *six dollars*. Now, contrast my *then* situation with your present prospects, and tell me what cause you have of despondence. My advice to you is to brace yourself up like a man; go on in your profession with *confidence* and patience. Sow the seed, and in due time you will assuredly reap a rich harvest.

During my late absence from home an ill-natured and abusive attack has been made upon me in this county by —, who is a candidate for the Legislature. Among other violations of *truth*, he charges me with having been, in 1825, opposed to Troup and the Old Treaty. This may be believed *abroad*, but *at home* every school-boy knows it to be false. I had intended to reply, but *all* my friends advise me to leave him to his fate. If the people of Putnam, who know us both, elect him to the Legislature, (for which he is a candidate and for which his prospects *were* fair,) then the community may believe his statements; but, if they refuse, then I may stand exculpated. I have *not* decided what I shall do. My own opinion is one way and that of my friends the other. I have not time to say more.

Yours, truly,

ELI S. SHORTER.

The Journals of the Legislature for 1830 do not exhibit the name of the gentleman referred to in the closing paragraph of the above letter: of course, he was defeated. Had Judge Shorter lived ten or fifteen years longer, he would have seen this *enemy* a Representative in Congress, then judge of the very circuit the commission for which Judge Shorter resigned; and the causes of this resignation constituted the most violent part of the attack. This gentleman afterward died Speaker of the Georgia House of Representatives. It is not here pretended, however, to justify his severe publication about Judge Shorter. Probably he regretted it himself after the excitement of the canvass died away.

In the fall of 1831, a number of delegates from various counties of the State assembled at Eatonton to consult on some method of internal improvement,—the first meeting of the kind ever held in Georgia. The main question was whether canals or railroads should be recommended. A committee reported routes for both, and another committee was appointed to memorialize the Legislature on the subject. These proceedings possibly gave the first impulse to that grand movement which has done so much for Georgia. Judge Shorter was at that time attending the Anti-Tariff Convention in Philadelphia, to which, with several other prominent citizens of the State, he had been deputed by a public meeting at Athens. This circumstance is mentioned to show why he did not appear in the Eatonton convention, the place of his residence.*

While in Philadelphia, Judge Shorter and Col. Jones, one of his colleagues in the convention, published a defence of Georgia in the case of the missionaries, which was copied into the *Georgia Messenger* of November 5, 1831, as follows:—

(From the Philadelphia Gazette.)

We ask the attention of our readers to the communication of Messrs. Shorter and Jones in the *Gazette* of to-day, which prefaces the article entitled "*Trial of the Missionaries*," from the *Milledgeville* (Ga.) *Journal*. The character of those gentlemen is deservedly high; they are both native citizens of Georgia; and Judge Shorter has presided judicially over one of her districts. His acquaintance with her laws is unsurpassed by that of any persons of his profession in the Northern States who have differed from him in reference to the question on which he has written. We have not yet been put into possession of the documents mentioned, save those marked in the Journal enclosed by our correspondents. We have no desire or design to enter into a discussion of the missionary question in Georgia; but we may be permitted to remark that the communication from Judge Shorter and his colleague places the matter in a light

* For Proceedings, see p. 69.

entirely different from that in which the people in this quarter are accustomed to view it. The fact that one of the missionaries and eight laymen accepted the pardon from the Governor of Georgia seems to indicate, in those who declined to accept it, a great share of stubborn hostility, calculated to excite unmerited commiseration, rather than that obedience to the law whose source, in the language of a great expounder, "is the bosom of God."

(For the Philadelphia Gazette.)

We have seen with pain and mortification a spirit displayed in many of the papers published in the Northern and Eastern States to misrepresent the facts out of which has grown the unpleasant controversy between the State of Georgia and a few missionaries lately residing in the Cherokee Nation. It is but sheer justice to the State that the facts should all be accurately known, and that none of them should be wilfully suppressed. The course which her revilers have deemed it proper to pursue has been to publish to the world, in the most aggravated shape, every allegation, no matter from what source or upon what authority, tending to put her in the wrong, and to withhold every fact and explanation, however well authenticated, showing her justification.

We only ask that she shall not be condemned by the moral and religious portion of the American people until after that people shall be made acquainted with all the facts.

We are both native Georgians. We have resided from our infancy within her borders, and we have been attentive and, we trust, impartial observers of her acts and policy, particularly in regard to the existing controversy, and may therefore be permitted to say that her course has been misrepresented, and is not understood by the community by whom we are at this time surrounded. The object of this note is to dispel, as far as we may be able, the errors into which many of our fellow-citizens have been led in reference to this subject, and to provoke a spirit of impartial investigation and inquiry, such as may result in the ascertainment of the truth.

The State of Georgia, after many years of forbearance, exercised her unquestionable constitutional right of extending her laws and jurisdiction over all persons residing within her chartered limits. In the exercise of this right she did no more than had previously been done by many of her sister States, some of whom (strange as it may be) are now her most relentless revilers. That she did not in this step transcend her constitutional power has been asserted by the President of the United States, and virtually by Congress and the Supreme Court. In justice to Georgia, it should be remembered that she forbore to exercise the power under consideration until after the head-men of the Cherokee Nation had devised, agreed upon, and promulgated a regular and permanent form of government of the State. In this aspect of affairs, it was not to be expected that Georgia, or any other sovereign State, would remain silent and inactive, and permit within her own limits, and upon her own territory, three separate, independent, and inconsistent governments to exist. To prevent such a state of things, she extended her own laws over that portion of the Cherokee country within her limits, and abrogated the Cherokee laws and form of government. Among other things, the laws of the State provided that all white persons (whether citizens of Georgia, or persons coming from other States) who should be found residing upon the Cherokee territory within the limits of the State, on or after a particular day designated in the act, should take and subscribe an oath to support the Constitution and

laws of the State of Georgia, or be held and considered guilty of a high misdemeanor, subject to indictment therefor, and, on conviction, to be punished as therein specified. When the day mentioned in the act arrived, many white persons were found residing upon the territory, some of whom removed, and many took and subscribed the oath required; but a few absolutely refused to do either, and among and at the head of these were the missionaries. They were then respectfully notified, by the authorities of the State, of the provisions of the law, and urged to a compliance with them; but they utterly and peremptorily refused. Their arrest was the necessary and inevitable consequence. They were, however, discharged from their first arrest upon the ground taken by themselves that they were agents of the General Government. This was subsequently ascertained not to be the fact; and they were again respectfully notified, by the authorities of Georgia, that their continued residence was unauthorized and illegal; that they should have, if desired, a reasonable time within which to remove, or if they chose to remain they could do so, by taking and subscribing the requisite oath. They again braved the authorities and laws of the State, took to themselves the right to decide upon the constitutional power of the State to pass the law in question, and made known their determination to disregard its provisions. It was not to have been expected that a sovereign and independent State would have suffered herself to be browbeaten by a few men, though they were in holy orders. The State was thus forced to the alternative of either permitting her laws to be deliberately violated with impunity, or to cause the missionaries to be a second time arrested. The latter course was promptly pursued: the missionaries were not only arrested, but indicted, tried, convicted, and sentenced in due form of law. And to show how tenderly the State was disposed to act toward those misguided and unfortunate men, and how regardful she was of the rights of others, we will in conclusion state that after those men arrived at the penitentiary of the State as convicts, and before their commitment, the Governor of the State tendered to each one a full and ample pardon, on condition of an assurance that they would in the way most agreeable to themselves obey the laws of the State. One of the missionaries, (Mr. Trott,) and eight other men not missionaries, promptly accepted the pardon; but the other two (Messrs. Butler and Worcester) maintained their original ground,—that the State had no right to pass the law by which they were about to be punished,—and rejected the pardon.

We now beg the favor of you to publish in your paper, in connection with the foregoing, the passages in the Savannah paper herewith enclosed and marked. We also request you to procure and republish in your paper the correspondence between the Governor of Georgia and the missionaries; the letter of the Governor to the Rev. John Howard; two letters from the latter gentleman on the same subject. The documents referred to may be found in the *Georgia Journal* or *Macon Advertiser* of early part of last month.

When those documents shall have been consulted, and when the facts which they shall develop shall have been made public, no one, we think, can believe that the missionaries have paid that regard to the laws of the land, and to magistracies, which is most plainly enjoined upon them by the Holy Scriptures of which they profess to be the heralds. They utterly deceive themselves: they are not martyrs to the cross of Christ, but they are martyrs to their own folly and stubbornness. If it were necessary to the defence of the State, we apprehend there would be but

little difficulty in establishing a further important fact,—to wit: that these missionaries have been most active and mischievous agents in exciting the Indians to a course hostile to the mild and philanthropic policy of the General Government toward that unfortunate people, and in engendering the most unfriendly feeling toward Georgia and her citizens. But we forbear to insist upon this for the present, and content ourselves with the foregoing statement of facts, by which it will appear manifest that, unless the missionaries were clothed with power to resist the State of Georgia and nullify her legislative acts, the reprobation of an enlightened community must fall on *them*, and not on the *State* whose sovereignty they have contemned and defied.

ELI S. SHORTER,

PHILADELPHIA, 10th October, 1831.

SEABORN JONES.

It was during the next year perhaps that he removed to Columbus and engaged largely in banking-operations. He also had an interest in a heavy mercantile establishment, and pushed several enterprises ahead with his native energy. His land-speculations in Alabama have been already glanced at. In May, 1836, the author happened to be in Columbus, where, for miles round, in the warehouses, in every vacant building or shed, and in hundreds of tents, a portion of the citizens of Alabama had taken refuge from the fury of the Indians. It was a time of great suffering and apprehension. While the stage halted a few hours, (the last trip made in safety through the nation that spring,) the author met Judge Shorter in the streets of Columbus, and was kindly invited to spend the evening with him; but the necessity of going forward to dear ones compelled him to decline what, under other circumstances, he would have gladly accepted. The stage soon left; and the beaming countenance of Judge Shorter was never seen afterward by the humble friend who pens this acknowledgment.

In tracing the career of so remarkable a man, it may be allowable to notice his infirmities, not as a reproach to his memory, but as a caution to young men in forming habits. Until 1827, Judge Shorter had indulged freely in card-playing, and considerable sums of money had passed through his hands in this manner. He has been heard to say, after he united himself with the church, that whenever he saw cards his fingers itched to handle them. He regretted this passion exceedingly. In his letter to the author he refers to his "bad habits" as a great misfortune. But—to his praise be it said—he was never intemperate, though much exposed to the temptation of drinking, from the custom that generally prevailed in his day of having liquors and wines on the circuit as a *necessary* part of the garniture of almost every lawyer's room. His good qualities far outweighed all defects, and as such let honor rest upon his memory.

A very fine monument in the cemetery near Columbus bears the following inscription:—

Erected as a Tribute of Love,
By his Family,
To the memory of
ELI S. SHORTER,
Who departed this life
December 13th, 1836,
In the 44th year of his age.

The eminent distinction of Judge Shorter was founded in the happiest union of the social, kindly, and intellectual elements of character. Profound and distinguished as a jurist, ardent as a friend, just and kind as a citizen, his name will be long revered in the great circle of his acquaintance, and his memory be forever embalmed in the hearts of his bereaved family.

“When this corruption shall put on incorruption, and this mortal shall put on immortality, then shall be brought to pass the saying that is written: Death is swallowed up in victory.”

XXIX.

CHRISTOPHER B. STRONG.

THE Nestor of the Georgia bar deserves a prominent notice. He was the last of the old school uniting suavity and courage with sympathies practically manifested in behalf of his fellow-beings.

CHRISTOPHER B. STRONG was born in Cumberland county, Virginia, in the year 1783. His father—the Rev. Samuel Strong, a clergyman of the Protestant Episcopal Church—was a native of Maryland, but in early life settled in Virginia. He intermarried with Miss De Graffenreid, whose ancestors came from Switzerland. This lady was the mother of C. B. Strong. Removing from Virginia to Oglethorpe county, Georgia, the father brought the son with him when quite a youth and imperfectly educated. He was never a student at any college. After returning when grown to his native homestead, Needham, which had been sold to Chancellor Taylor, and completing his legal studies under the direction of that able jurist, young Strong came back to Georgia, and at January Term, 1808, of Wilkes Superior Court, he obtained licence to practise in the several courts of law and equity. Within a few months after his admission to the bar, he again returned to Virginia. During this visit he married Miss Lucy Ann Wood-

son, a young lady of distinguished merit and beauty, daughter of Miller Woodson, Esq. Soon after his marriage, he fixed his residence in the town of Eatonton, Putnam county. Of his success, whether immediate or gradual, in his profession during the first few years of his practice, the author has no certain information. It is presumed, however, from circumstances, that it was quite fair, and adequate to the wants of a growing family; for we soon find him bidding adieu to his lovely wife and babes for the hardships of the camp. His country called, and he made the sacrifice. A companion in arms*—one whom he loved as a brother, and who was admitted to the bar with him—has communicated to the author the following particulars:—

The Ocmulgee circuit, which now comprises the central counties of the State, was then a frontier-region, to which the Indian right of occupancy had but recently been extinguished; but the soil and climate gave assurance that it would soon be inhabited by a dense and thrifty population, among whom our young aspirant for professional distinction determined to take up his abode. Some time in the year 1809, he established himself at Eatonton, the seat of justice for the county of Putnam, where he continued to reside until the rapidly-increasing population and commerce of Macon promised, as he supposed, a better theatre for his future operations. It is not quite certain that his removal to Macon was a fortunate one: at any rate, after the lapse of a few years he gave preference to another home, at Perry, the court-house village of Houston county, where he passed the residue of his life.

When the war of 1812 was declared by the United States against Great Britain, Mr. Strong had begun to realize the fruits of a growing practice, which the comfortable support of a young and interesting family required him to cultivate and enlarge by unremitting attention to his office; but, heartily approving the belligerent measures of his Government, he determined to take a part in the first campaign to which the troops of Georgia might be summoned. In the fall of 1813, a requisition was made by the Federal Government on the Executive of Georgia, in response to which three thousand six hundred men, chiefly volunteers, were detailed from the body of our militia and ordered to rendezvous at Fort Hawkins, a frontier-station on the left bank of the Ocmulgee River, near the place on which the city of Macon has since been built. Here Mr. Strong, then bearing the commission of lieutenant, took his place in a squadron of six hundred dragoons commanded by Major Frederick Freeman. This army, comprising much of the young and ardent chivalry of Georgia, was placed under the command of Brigadier-General John Floyd, of whose gallantry and accomplishments all were justly proud, and had orders to march without delay against the Creek Indians, a tribe that numbered many thousand warriors, who had been seduced into alliance with Great Britain.

The first encounter with the enemy took place on a spacious plain at the two towns of Autossee and Tallisee, situated on the left bank of the Tallapoosa River, not far above the confluence with the Coosa, in the (then) Territory of Alabama. In a desperate charge on one of the Indian

* Major Joel Crawford.

towns, Lieutenant Strong had his horse shot under him, and many of his companions in arms fell; but the survivors had the gratification of seeing the enemy completely routed and their towns laid in ashes. Some weeks afterward, General Floyd met the enemy in great force near a large creek called Cauleebe. The action took place in the night, in which the troops exhibited more than wonted courage, and with the accustomed result of complete victory. Lieutenant Strong's corps being absent on a foraging-party, he could take no other part in the battle than the duties of staff-officer, and, that he might act in the most effective position, tendered his services to the general as field-aid for the occasion.

Lieutenant Strong's professional status conferred on him peculiar qualifications for the office of judge-advocate, the duties of which he performed during the campaign. As a reward for these meritorious services, he was subsequently elected by the General Assembly to a high berth in the general staff of the State's militia, with the rank, title, and pay of lieutenant-colonel. He did not remain, however, long in this office, having in the fall of 1817 (as well as I remember) been elected Judge of the Superior Court for the Ocmulgee circuit, and afterward to the same office in the Flint circuit. His popularity was so decidedly strong that he seldom failed in a canvass for an office until the infirmities of age began to manifest themselves, and until the progress of general scholarship, and especially that of the profession of law, brought better-educated and abler men on the stage of active life.

Judge Strong's politics were derived from the Republican school of Jefferson; and no citizen of this State advocated with more persevering uniformity the progress of wholesome reform. During the *twenty years' struggle* for the institution of a Supreme Court of Judicature, he was found among the active supporters of that measure. To one who knows what is properly meant by a "judiciary system," and a stranger to the vile opposition that was made to this indispensable reform, it would seem incredible that men could be found, in this or in any other civilized state, stupid or depraved enough to war against the establishment of a Supreme Court for the correction of errors. Amid the hurry and disturbances of a circuit-administration, the most accomplished and righteous judge is liable to be betrayed into misconceptions of the law; much more one who may be deficient in both moral and mental endowments,—acting under assurances, too, that his decisions are conclusive, because subject to no revision, not even the responsibility which arises from an accurate report and publication of his judgments. Yet it is certainly true that, under the drill of demagogues and party tools, the people were taught to deery the institution as useless, if not dangerous to civil liberty. When the measure was at length carried in the General Assembly, the same timorous folly and wayward perverseness found means to clog it with conditions which, in subjecting the officers of court to useless labor, privation, and expense, have essentially impaired its value to the country.

The subject of this sketch was at all times distinguished by great generosity and frankness. Selfishness, duplicity, and avarice were strangers to his bosom; whilst courage of a high order served him in every emergency. Few men had more pleasure in the companionship of friends and scenes of hospitality; in few were the professions of friendship more sincere.

After this full and satisfactory sketch by a gentleman so competent, it is unnecessary to add further remarks on the legal career

of Judge Strong. The author thinks proper to say, however, that after the Supreme Court was established, and Judge Strong attended the first term in 1846, the judge, after closing his argument, addressed a few observations to the court, which, coming from one so venerable and so highly respected, were received in the kindest spirit by the talented judges on the bench,—Lumpkin, Nisbet, and Warner. The substance of Judge Strong's remarks, as stated to the author, was about this:—"May it please your Honors:—My experience at the bar dates back near forty years. I thank God that my life has been spared to this hour to behold a tribunal for the correction of errors. I can adopt the language of one of old, with slight variation, and say, Now, Lord, let thy servant depart in peace; for mine eyes have beheld the salvation of the Judiciary of Georgia." He then bowed gracefully to the court, and retired. It was a scene of moral grandeur; and it touched every heart. The response of Judge Lumpkin was in his usual felicitous style. The author regrets that he is not in possession of the precise remarks of both parties, that he might gratify his readers with a specimen of elegant courtesies.

Without attempting a connected narrative, the author will merely glance at a few prominent passages in the life of Judge Strong, which will show his true character.

In the year 1821, Gov. Clark, for some cause, declared the office of Secretary of State vacant, and appointed a successor to Col. Abner Hammond, whose term had not expired; nor had he tendered his resignation. Col. Hammond, feeling himself aggrieved, and that he had been deprived of his office without authority of law, applied, through his counsel, to Judge Strong, then presiding in the Ocmulgee circuit, for a *mandamus* requiring the Governor to reinstate him in his public trust. Judge Strong granted the writ, and on the hearing sustained the process,—thus restoring Col. Hammond against the whole weight and influence of the Executive. It was a proceeding in which the ardent feelings of Gov. Clark were actively enlisted; but the stern and virtuous judge made no distinction as to the rank of parties. It was sufficient for him that the law had been disregarded, and that he was applied to for the corrective. His opinion was extensively published at the time, and has been reproduced in pamphlet form, by direction of the Legislature, in a recent case, wherein Gov. Towns was made the subject of a *mandamus*, as may be seen by the case of *Low vs. Towns, Governor, &c.*, in the eighth volume of Georgia Reports. The author has not succeeded in obtaining a copy of Judge Strong's

opinions, so as to show the material points involved. In reference to it, the author received the following note from Major Joel Crawford :—

I was confined to a bed of sickness at Milledgeville when Hammond's *mandamus* case was argued and determined. Of course, I witnessed nothing of it ; but it was certainly one of those cases that might shake the nerves of a timorous judge, because of its novelty, and the standing and character of the parties. According to the public opinion of that day, the judge acquitted himself with great credit.

In the heated controversy between Gov. Troup and President Adams in 1825, growing out of the treaty of the Indian Springs, Judge Strong was a zealous supporter of "Troup and the Treaty." The death of McIntosh and other chiefs, inflicted by the people of their own tribe for signing the treaty, caused Gov. Troup to institute a severe scrutiny into the conduct of Col. John Crowell, the United States Agent for Indian Affairs, who, it was suspected, had encouraged the opposition of the Indians to the treaty and had connived at the murder of the chiefs. It would be tedious here to notice all the occurrences which influenced Gov. Troup in this matter. The President had despatched Col. T. P. Andrews as Special Agent, and Major-General E. P. Gaines in the twofold capacity of High-Commissioner and Military Chief,—in the first to try negotiation, and, that failing, then to employ the force of the General Government to bring Gov. Troup and the State of Georgia into subjection. It is known that the conflict was possible, and that the people were highly excited. As the correspondence progressed, the dispute became more bitter. For offensive language, Gov. Troup had suspended all official intercourse with the Special Agent and the High-Commissioner. The Governor had abundant reasons to justify this apparently harsh course. Among a number of affidavits of the most respectable citizens is the following by Judge Strong, which is copied entire, as an index to the times :—

GEORGIA, BIBB COUNTY.—Personally appeared before me Christopher B. Strong, of the State and county aforesaid, who, being duly sworn, saith, on the 11th day of August, in the year 1825, at the Indian Springs in the county of Monroe, in said State, he heard a conversation commence between Gen. Edmund P. Gaines, of the United States army, and Milton Cooper, of Putnam, in which Gen. Gaines appeared to manifest much passion ; and, after this deponent got near enough to hear what was said, he heard the general say, "He is a demagogue ; his partisans are demagogues ; he is guilty of treason, and the commissioners have stated wilfully falsely,"—or words to that effect. I was informed, by several gentlemen then present, that the former epithets were used in relation and applied to Gov. Troup, of Georgia. A severe controversy ensued betwixt the general and myself, which it is unnecessary here to detail.

This deponent further saith that, from what passed at that time, he has no doubt but that the first-mentioned expressions were used by General Gaines in direct relation to Governor Troup.

CHRISTOPHER B. STRONG.

Sworn to and subscribed before me, this 23d day of October, in the year of our Lord Christ 1825.

ELI S. SHORTER,

Judge of the Superior Court.

Here further notice of that celebrated contest, in which the Executive of Georgia was triumphant, will be forborne. As Judge Strong was a public witness adduced to the Legislature, his testimony has been deemed pertinent to this memoir.

In 1828, Judge Strong was elected to the bench of the Flint circuit, and again in 1831. A very exciting trial came on before him at the Fall Term in 1832. In August of that year, Henry Byrom killed Thomas M. Ellis in the city of Macon. The accused was a noted gambler, and was supported by a powerful influence growing out of the failure of the Bank of Macon, of which Mr. Ellis had the chief control, as one of the directors, when it suspended payment. Byrom was a desperate, bloodthirsty man, who pretended to have been injured by the failure of the bank and that Mr. Ellis had denied him redress. At early dawn, as Ellis was on his way to the market-house, Byrom met him in the street and used some insulting remark. Ellis, constitutionally fearless, raised his cane as if to strike, when Byrom drew a pistol and shot him through the body. The slayer was committed to prison. Great and persevering efforts were made to discharge him on bail, without success. Byrom's friends, paying large fees, had secured the ablest counsel at the bar. Washington Poe, Esquire, was the Solicitor-General, and manfully battled for the public justice.

The trial opened: the witnesses were examined, and the counsel on both sides heard. A rumor was afloat that, in the event of conviction, a rescue would be attempted in the court-room, and that the prisoner, at the moment the verdict was delivered, would shoot the judge, and then the uproar would commence. This had reached the ears of Judge Strong. He provided himself with a brace of pistols, charged the jury with firmness, and continued in his seat, with a pistol in each hand concealed under his cloak, until the return of the jury. While their names were called, he kept his eyes fixed on the prisoner, and had determined, if the verdict had been "guilty" and the prisoner had made the slightest demonstration, to have shot him dead in the box. But he was spared the dreadful alternative. These facts the author had from the lips of Judge

Strong himself. Byrom was soon afterward killed in Milledgeville, by the proprietor of McComb's hotel, in self-defence.

The character of Judge Strong for high moral courage in the discharge of his duty was so well known that his name was honorably presented under these circumstances. Mr. Webster, as Secretary of State during part of Mr. Tyler's administration, had inquired of members of Congress from Georgia if they knew any gentleman of their State, of resolute character, suitably qualified in other respects for the office of Judge of the district courts of Florida, who would administer law faithfully and check that spirit of outrage which had lately broken out in lynching persons to death, burning court-houses and the public records, and defying the criminal justice of the Territory. The reply was, that if Judge Strong could be prevailed on to accept he would be the very man for the station. His peculiar qualities were then stated to the Secretary, and through him to the President,—all without his knowledge. Whether Judge Strong ever received any official communication on the subject, the gentleman* who gave the author these facts was not advised.

As a politician, Judge Strong always belonged to the State-Rights school, of which Mr. Jefferson and Gov. Troup were the exponents each in his day. The greatest State-Rights meeting ever held in Georgia was at Milledgeville, on the 13th November, 1833, over which Judge Strong presided,—truly a distinguished honor, of which he retained a pleasant recollection to the close of his life. As the proceedings of this meeting are noticed at considerable length in the memoir of Gen. R. A. Beall, in this work, the author will omit them here.

Judge Strong was a supporter of Mr. Clay for the Presidency in 1844. In the spring of that year, while making a speech at his public reception in Macon in reply to Mr. Poe, the Mayor, Mr. Clay pleasantly alluded to his friend Judge Strong as a witness to certain things in Virginia, connected with parties, thirty or forty years ago. Then, turning to Judge Strong with a smile, he apologized for classing him with old men, as he (Mr. Clay) knew that his friend was a widower, and therefore, while such, could never become old.

At the request of the author, a nephew† of Mrs. Strong gave the following particulars relative to the family of the judge:—

* Hon. Lott Warren.

† Dr. Creed Taylor Woodson.

Samuel Strong, the father of C. B. Strong, married a Miss De Graffenreid, a sister of the wife of Miller Woodson, who was the father of Lucy Ann Woodson, who married her cousin, C. B. Strong. On his mother's side his ancestors were from Switzerland. The De Graffenreids were and are among the nobility of that country. His great-grandfather was a baron of Switzerland. In reading the history of North Carolina, you will find mention made of De Graffenreid who had a grant from Queen Anne for a large domain of land in North Carolina, where New Berne (Newbern) now stands. He gave the name to that place. Afterward, before things were properly matured, he embarked for Switzerland, and died on the way. While in this country, he was taken prisoner by the Indians; and the only thing that saved him from their cruel butchery was the coat of arms he wore in his bosom, which induced the savages to believe that he was a king, and it being against their laws to kill a king.

In another part of the same letter, the writer says of Judge Strong:—

He removed from Eatonton to Macon in the year 1825, where he resided about twenty years; from thence to Perry, Houston county; and, a short time before his decease, to Vienna, Dooly county. As to the papers and letters belonging to C. B. Strong, I presume they are all in Perry. I have made no examination of them. C. T. Strong, I expect, will take charge of them. If any of them are of service to you, of course you can get them. I believe I have now answered all of your questions. Joel Crawford, an old friend, can give you more information relative to Judge Strong than probably any one else can of my acquaintance.

In Wheeler's History of North Carolina, under the head of "Craven county," (p. 110,) is the following paragraph:—

Its capital is Newbern, one of the largest and oldest towns in the State, beautifully located at the confluence of the Neuse and Trent Rivers. It derives its name from Bern, the place of nativity of Christopher Baron de Graffenreidt, who, in 1709, emigrated to this State and settled near this place. He had purchased of the Lords-Proprietors ten thousand acres of land for ten pounds sterling for every thousand acres and five shillings quit-rent. In the month of December, 1710, the Palatines, as they were called, landed in Carolina, and fifteen hundred Swiss. The fatal attack of the Indians already alluded to, in 1711, had like to have destroyed this colony, which was a great acquisition to North Carolina. De Graffenreidt and Lawson, the surveyor of the Colony and its earliest historian, while ascending the Neuse were seized by the Indians. Lawson was massacred, and the baron narrowly escaped. He became disgusted with the country, and sold his interest to Thomas Pollock for £800, and returned to Switzerland.

In relation to family ties, it may be stated that Nathaniel W. Henry, a son of the celebrated Patrick Henry, married a sister of Mrs. Strong. This led to a visit from her nephew, the grandson of the illustrious orator, who was persuaded by his uncle and aunt in Macon to spend several months with them, or within visiting-

distance, before his return to Virginia. The trustees of the Marion Academy, in Twiggs county, engaged young Patrick Henry to take charge of their institution if upon trial he was pleased with the employment. Knowing the anxiety of a father respecting an absent son, the author wrote a letter, to which the following is a reply:—

LEAKSVILLE, N.C., June 20, 1832.

DEAR SIR:—I would solicit your pardon for the delay which has occurred in replying to your invaluable favor of the 19th ult. That a single moment should have been lost in acquitting myself of so high an obligation is to me a source of no inconsiderable self-reproach.

Believe me, dear sir, that I not only appreciate, but do even *idolize*, the *motive* which prompted your late communication. The thoughtful civility of the gentleman, and the benign, endearing spirit of the philanthropist, so conspicuously displayed therein, will lay my heart under tribute to your name through the remaining days allotted to me in this life.

To have received from a well-known friend the testimonials you present in behalf of my son's honorable conduct, popularity, and prospects, would have afforded me a delightful solace, an exulting gratification. But proceeding, as it does, from a remote stranger, evincing the warmest personal interest in the fortunes of his son, so favorably spoken of, this testimonial becomes transcendent in value, and exerts upon my sensibilities an effect absolutely overpowering.

Being thus cheered and enraptured by the intelligence in your late letter respecting my dear boy, you may well infer, dear sir, that the precious news required no apology for its communication. Rather might I be deemed a stoic or a barbarian if my bosom withheld a fervid response of gratitude and homage for what you have been pleased to write me in a manner so ingenuous and pregnant with sublimated sentiment. Upon the whole, dear sir, propriety seems to exact from me an apology for the enthusiastic emotions elicited by your letter. It is only by substituting yourself in *my situation* that you could so realize as to *tolerate* the parental feeling which transports me on the present occasion.

When Patrick pioneered his way into Georgia through the rigors of the last winter, the highest, the fondest appreciation of his merits forbade the hope of his being destined to attract so largely the patronage of her sons. From the generosity and commanding influence of his uncle, Judge Strong, I knew he would derive very material facilities to advancement. I could scarcely dream, however, that such a *host* of generous and distinguished citizens held themselves in readiness to emulate the judge's devotion and unite with him in raising the dear boy to a station in business and an attitude in society wellnigh too conspicuous for his years.

Among those gentlemen I shall ever cherish Judge Warren and yourself as prominent friends of my son, who, in fostering him with so much kindness, have appropriately testified their civic veneration for the memory of his immortal ancestor. Allow me then, dear sir, to lay *emphasis* on the gratification it affords to number you among the patrons and associates of my son. From him I have long since learnt your standing as a gentleman

and your distinction in the wide circle of all those attainments connected with legal science.

May I therefore solicit your courtesies toward him in the bland, imposing capacity of a *mentor*? By the treasures of your library, the lights of your conversation, and personal attentions in the social circle, you may be enabled to exert a salutary agency in maturing the intellect and taste of a youth who entertains for you the strongest predilections.

I am, dear sir, both humbled and animated by the deferential terms in which you express your feelings toward the sons of Patrick Henry. While it is their highest pride to see the memory of such a father idolized by "AN ADMIRING WORLD," and especially by the patriot-illuminated spirits of our own land, they cannot but lament their own comparative unworthiness,—their inability, in a word, to achieve for the human race the least of his mighty triumphs. Those who claim descent from a great man, if possessed of well-tempered, philosophic feeling, have perhaps as much to depress as exalt them in their own estimation. Unless (which is rarely the case) they inherit the ancestral talent with the name, their nearest approximation to the parent must necessarily be in copying after some of his virtues.

But the gratification of dwelling on the honors paid by the world to an exalted ancestor is, for the most part, a sublime feeling. The trump of fame has indeed a *potent harmony*; and, when its loud blasts are sounded in honor of the great, nature herself commands every kindred being to dilate with pride,—to appropriate to himself a semblance of the scenes and events commemorated.

I conclude, dear sir, with the assurance that your name comes introduced to me, as a son of Patrick Henry, under auspices which will ever consecrate that name with me and mine. If the occasion of writing your late letter afforded to you a source of personal felicitation, far greater reason have I for registering this, my poor reply, among the very happiest incidents of my life. Will Mr. Miller give Patrick the perusal of the within for his special gratification? Please inform him that I will write him very shortly. Mrs. Henry, my daughters, and little boy unite with me in presenting you our unfeigned regards.

Allow me, dear sir, to remain, with most respectful consideration, your sincere friend and obliged servant,

NATH'L W. HENRY.

STEPHEN F. MILLER, Esq.

This letter is introduced as applicable to the memoir of Judge Strong, as he is mentioned in it, and not to gratify any supposed vanity in the author, for he is conscious that the writer of this very kind letter overrated the claims of the author to the very civil expressions dictated by courtesy and by a cordial, sympathizing gratitude for little attentions the motives of which he well understood. At all events, this publication will never be seen by Mr. N. W. Henry. His honorable life closed within the last few years, and his son Patrick, once an officer in the army, is now happily married and settled in Virginia.

Having disposed of the ancestral and kindred branch, the author

now proceeds to a test far better of the elevated disposition of Judge Strong,—his own letters written to his son, Creed Taylor Strong, who at the request of the author placed them in his possession, with liberty to select such portions as might be considered interesting. Of course, they were all strictly private, and, as will be seen from the dates, were written from different places where the judge happened to be in attendance on the courts or on general business. During the period embraced by this correspondence, the son was at different places as a law-student, as a practitioner, and was also in the Creek campaign of 1836. These facts appear in the letters of which the following are extracts:—

FAYETTEVILLE, Sept. 17, 1833.

My letter to your dear mother will inform you of all that concerns your absent father; and I have only time to say to you that your interest and welfare occupy much of my thoughts and most anxious desires. Learn to abstract your thoughts and fix them exclusively on your studies while you read. Learn to analyze what you read, and memorize and understand the definitions, divisions, reason, and spirit of the law. Let Col. Bailey frequently examine you, and still more frequently mentally examine yourself; and, when you have answered, look to the author to see if you have answered right. That will impress the law upon your memory and discipline your mind.

MILLEDGEVILLE, Nov. 9, 1833.

I have no desire to attend at the State-House. If I had, I have no time. Hence I presume you know as much of their proceedings as I do. No good can (but by accident) grow out of the legislation of the present Assembly. Their object is party ascendancy, and not public good; that is a subordinate consideration with the majority.

The judges* talk and talk, and now and then determine interesting cases; but we want organization by law as a Supreme Court. Till that is done we can do but little good. When I return, I will report to you such matters as may be either useful or interesting. Read on: the more you read the more pleasure you will take in it, and the better you will understand. I am often amused, even at this late day of my life, at the clear additional views that flash upon my mind on perhaps the hundredth reading of the same thing. Memorize all *divisions* of your subject and *definitions*, and look to the *reason* of the law. This lesson cannot be too earnestly impressed nor often repeated. For we readily assent to so reasonable and obvious directions, but too often fail in their practical execution. This results from a lack of *fixed, exclusive* attention and mental energy and industry.

The habit of abstracting the mind from all other subjects but that studied, and concentrating our whole thought to the mastery of the immediate idea or matter desired, should be by a student unceasingly cultivated. A point so important should be pursued until it shall be attained. And remember, in this as in other things, practice, *constant* practice, makes

* In the Annual Convention of the Circuit Judges.

perfect. Wherever I may be, I think of you, love you most affectionately, and pray for your advancement and prosperity daily.

THOMASTON, 27th August, 1834.

The weather is becoming pleasant; and you should now devote your mind exclusively to your study. The power or faculty of abstracting one's mind from all other objects and subjects, and placing it exclusively upon the desired point of study or investigation, is as desirable as it is necessary. Such habit can alone be acquired by constant *labor* and *attention*. If you find your mind wandering, stop right there. Read over the paragraph again attentively; then take your eye from the page and endeavor to repeat aloud what you have read: repeat this until you can in substance clearly repeat what you have read. Then proceed again and watch the action of your own mind; and, the moment you find it diverted from your subject, repeat the same process; and if not in a week, I know in a month, by experience, (the best test,) that you will have acquired the desired habit.

Now, my dear son, *sit right down to work* and reduce this to *practice*. Your future advancement depends upon it. Acquire this faculty: you cannot have any correct idea of the advantage it will be to you through all future time in facilitating your comprehension of your reading and investigations of all subjects and cases.

I have been thus particular because I apprehend that you do permit your mind to *muse* and wander too much. I know your sensitiveness, and respect it, and respect your feelings; but it is my duty, as your father and best *friend*, to be faithful, and not, from fear of wounding perhaps too sensitive feelings, to neglect my duty. Besides, it is my nature to be frank and candid, and I am now too old to abandon what I believe to be a virtue. When you are spoken to or asked a question, you too often appear to be *musng*, and too frequently painfully delay a reply. For the purpose of facilitating your investigations, of advancing the progress of conversation, making yourself agreeable and intelligible, I beseech you to accomplish the improvement I recommend and become more prompt. You have a *clear, sound mind*, much better education than I have and one-half of your cotemporaries; and there is *no* reason why you should not be successful. Respect the opinions and feelings of those around you; make yourself communicative and as agreeable as you can, and "go ahead." Never be stubborn or slow in improvement. The world is in a rapid state of change and improvement; and we must adapt our habits and manners to the times and company we meet, as far as is consistent with virtue.

I desire and intend to spend some time in your examination the week after Monroe court, and am very desirous that before you go to Augusta you should acquire a habit of *more promptness* in your answers. Take this as you may, I feel that I have performed a duty, and *know* that it is intended for your good, and for that alone. Could you see the many harsh letters I was in the habit of receiving, you would appreciate my motives and readily forgive any error the quickness or ardor your father's temper and nature have or may lead him into. Whatever may be the feeling or opinion of the moment, when I shall have mouldered in the dust, and time shall have ripened your judgment and experience shall enable you to compare the past and the present, then my failings, whether of commission or omission, will be kindly reviewed, and my little merits will be properly estimated; and you will bless God that you had not a worse father. My love, *my all, my heart*, to mother and all the family; and may the God of all grace bless and prosper my son!

VINEVILLE, 27th January, 1835.

Our almost interminable court, after a five weeks' session, has at length adjourned, and I avail myself of the first moment's respite to answer your most excellent and gratifying letter. I approve of all you have done,—rejoice with exceeding joy in your honorable admission and creditable examination. All this is attributable to your prudence, industry, and wisdom. In all your progress you have acted upon the principle that the *end* cannot be *attained* without *using* the *means*,—that a wreath of victory can never be obtained without a battle. Onward, onward, my dear son, from effort to effort and victory to honor and profit and glory; and may the God of all power and wisdom and glory direct, support, and defend and bless you! Remember that, although your education is somewhat limited,* it is not as much so as your father's, your uncle Taylor's, the immortal Patrick Henry's, or Washington's. Your remarks relative to your brother Samuel's return to college are beyond all praise.

VINEVILLE, 12th September, 1835.

Although I shall, with God's permission, see you so soon, the impulse to commune with one I love so much is irresistible. Your letter to Samuel a few days after your arrival was most cheering to us, as it seems to have been written with good spirits by you; and, by-the-by, no one need despond who can write such a letter. For he who can express his ideas in such peculiarly apt words and sentences can always write well, and, if he will throw off or conquer his diffidence, can and will speak well. Cultivate, then, my dear son, your speaking-powers,—study the gift of the gab,—and you will succeed in your profession.

Col. Bailey says that you must practise in such counties as you desire in co-partnership with us, upon equal terms. We will agree about this when I see you, and publish accordingly. In the mean time, stick to your room, or office, and books, whether you have business or not. Let the people see and know you are there and can be found ready for it, and they *will*, sooner or later, come to you. Men must radically change in their nature if it be otherwise. You can have no idea of the importance of being in office, business or no business. Many a fat fee have I lost by a moment's unnecessary absence. The people know that you must be absent sometimes; but they are very sagacious in distinguishing betwixt necessity and idleness, or attention to *pleasure*. They very properly prefer to confide their business to the attentive and laborious punctual man, be he whom he may. I have great confidence in you, but desire you at once to establish a steady business-character; and I know from sad experience how easy it is to contract the lounging-out-of-place habits of a village life. The very persons who seek your company will remark upon your misspent time. The more you stay in your office the more you will like it; and this habit will soon convince you that your books are your best company. A short time after dinner, and again about sunset, is the time for recreation.

In the investigation of all subjects, observe system. Read Blackstone, the subject considered, the notes, then the references or treatises you

* In August, 1833, when the author first visited Athens, he found Creed T. Strong and his brother Samuel students of Franklin College. Perhaps they did not graduate, judging from this passage in the letter.

have, and you will understand. Write occasionally on such subjects as Slander, Seduction, Justice *vs.* Injustice, &c. &c. Such compositions and declamations will quicken and enlarge your scope of thought, improve your already excellent style, and facilitate your speaking. On Sabbath, read the Bible and the best sermons you can command. Of evenings, read Erskine's speeches, or something of that sort.

And, my dear son, now remember thy Creator in the days of thy youth. Oh that I had observed this obviously golden precept in time! What sin, what suffering, what folly, what *remorse*, would it have saved me! Had I done so, I should not now in my old age have been so destitute of temporal and spiritual gifts. But, thank God, I have a hope. May your days be many and full of blessings, mingled with such as will insure you immortal joys, pray your father and mother day and night.

VINEVILLE, 26th January, 1836.

My indisposition has given me such a back-set that it would be the height of imprudence to turn out to the courts of your circuit. This I equally regret on both your and my own account. However, we must submit to such dispensations. Col. Bailey and Samuel will both go to Stewart, which is next Monday. Samuel's purpose is to apply for admission; and I hope you may find it compatible with your interest and convenience to be there yourself.

If you have not bought a horse, if you will throw away your diffidence you can borrow or hire one. If you buy, remember your uncle Taylor's advice to me; get one of moderate price, not a tackey, nor yet one of high price.

I rejoice to hear of your prosperity. Stick to your business; nor let Indian wars, or rumors of wars, or any thing else, divert you from *now* taking fortune in the flood. If you quit your business now, your country will not, after all, remember you in the hour of need, especially in old age. Besides, your dear mother and sisters may have claims upon you. To abandon your business to serve the country, unless the necessity was greater, would be folly. I have said thus much, lest in a moment of excited youthful patriotism you might, in these piping times, volunteer.

Do you keep regular books, in which you make regular entries of all your business-transactions? I never knew a lawyer who did, who did not prosper; few who did not, who ever realized any thing. The habit itself does much good, and will save you much perplexity.

VINEVILLE, 4th May, 1836.

Doctor Bailey and lady have arrived; and we are all delighted with them, and they write home that they are so with us. Indeed, we are proud of them as relatives. He is, in person, rather an improvement upon his brother,* as his legs are better formed and his expression of countenance more cheerful. He is also more communicative and at ease in his manners and address: his talents and acquirements excellent. In a word, he is a well-raised, well-educated, talented, and very agreeable gentleman.

But still more of madam. Without affectation, she is rather handsome than otherwise, and *very talented*. Her conversational tact and talent is

* Col. S. T. Bailey will pardon the author for this extract at his expense.

most excellent, and her powers of philosophical and moral amplification and illustration unsurpassed. She has not the staid dignity of the old-school dames, nor the frivolous levity of the modern; yet she has evidently been well raised and well educated, and has moved in the very first circles. She (woman like) talks a little too much, but always charms and enlightens all around her. I repeat that we are proud of our kin.

* * * * *

We deplore your absence over each bowl of strawberries,—indeed, whenever we have any thing that tends to the gratification of mind or taste. Be cheerful: nothing promotes one's interest more than a cheerful, independent, familiar port; nothing so destructive as despondency. Therefore hold up, my dear son, and prosperity, wealth, and fame await you. We need not indulge in unnecessary and tedious expressions of love and affection: our whole hearts are with you, and may our heavenly Father preserve and bless you!

VINEVILLE, 18th May, 1836.

You have no doubt seen the account of Houston's victory and the capture of Santa Anna: the first I believe; the latter is too good to be true, I fear. Indeed, I consider the Texan cause for the present as desperate: they have gone too prematurely into attempted revolution. They should have declared for the Mexican Government and yielded to it for five years to come, matured their plans and acquired strength, and then have gone for revolution. They are too weak to effect any thing, unless they should, by the grace of God, capture (as it were by accident) the tyrant.

The Creek Indians also, it appears, are for war. If this be so, pardon me, my dear son, for throwing out a few hints to the wise. Remember that, last war, I left your dear mother, sister, and yourself, my professional interest and my all, and flew to the service of my country. As we were then at war against one of the most powerful nations in the world and nearly all the Indian nations, the danger was great and the necessity urgent. I served faithfully; and in this selfish age how much good has it done me? I could tell you many things which would show the deep ingratitude of this people. Still, I profess to be a patriot, and would be the last father who would say, Stay, my son, when true and prudent patriotism should say, Come. But, should there be a call in which you should feel inclined to embark, I would be glad that you would consult one who has some experience, and who will be sure to give you advice matured by the most prayerful consideration. You would be entitled to rank, and ought not, but in an extreme case of necessity, to go as a private or non-commissioned officer. Indeed, your profession should command all your heart, mind, and attention, unless your country's call should be imperative.

MACON, 2d June, 1836.

I most deeply deplore the circumstance of our having passed without meeting. I desired much—very much—to have seen you. But I presume you have not time now, compatible with honor and duty, to come this way. Go then, my dear son, and be as *prudent* in the field as I know you to be good and brave; and may the God of battle and salvation be with you, and your shield and guard!

Write us by every opportunity. That your life may be long, very long,

that it may in all things be prosperous, very prosperous, and glorious and happy, and that you may finally be crowned with glory, immortal glory, prays, and will continue to pray, your most devotedly affectionate father.

VINEVILLE, 20th June, 1836.

When I write to *you*, I need not tell you that my heart is in my pen; for that must be obvious. You are my oldest son, and have been always the most affectionate and obedient in the discharge of all filial obligations and duties. Furthermore, the government and training of the Episcopal Church is parental. My view of parental duty is not of the ordinary character: it is like the attachment of the ancient Jews to their ancient city:—"When I forget *thee*, O Jerusalem, Jerusalem, may my right hand forget its cunning," &c. &c. Never will I forget my duty to the offspring of my loins. But, if you had none of my blood in your veins, I should still love you for your own affectionate nobleness of character. That I should feel intensely for you, therefore, is not wonderful. I have long since calculated the chances of war, and laughed at them; yet still a parent's weakness sometimes prevails. But, thank God, you are at last in the Nation, and I hope soon all will be gloriously over.

I think your mother and myself will get safely through the summer, and probably finally regain our health and live to good old age, to bless our children and that they may bless us. But we should all remember that we are dependent upon HIM who made us for every health and blessing.

VINEVILLE, 2d July, 1836.

God only knows where you are, or how you may be, or when or where this letter will reach you. But I obey the injunctions of duty and the dictates of inclination and affection, and write to you at hazard, in the hope that it may, in the midst of all your trials and privations, impart some comfort. The most reasonable presumption is that you are, or have been, in chase of the two hundred Indians who have outgeneralled the generals and the *poor* Governor to boot, and have not overtaken them. But, be this as it may, you are in the hands of the Lord; and to him we must look and pray for your safety and deliverance from all your toils and dangers.

VINEVILLE, 30th September, 1837.

I am sure your excellent, kind, affectionate heart is always (when not engaged in communing with Him who deserves our first and last gratitude and adoration) *with us*, especially when affliction lies upon us, and that you desire to hear from us. The day we parted, I got to Wilcher's as wet as I well could be, and without accident reached home yesterday, where I found all as well as could have been reasonably expected.

Your dear mother goes about like weeping Mary, but with more resignation and confidence in the dispensations of her heavenly Father. And time will restore her, I hope and believe, to more serenity than she has before enjoyed. We night and morning all unite in our prayerful sacrifices; and it acts, as prayer always will do, *like a charm*, when made in sincerity, when it springs from the heart. The business of my remaining life shall, by God's grace, be devoted to him, and in leading those with whom he has blessed me, and all others, to the throne of heavenly grace. And oh, my dear son, the joy I feel in the character of your letters! It

almost assures my broken heart that you are on the heavenly road with us. Press on, my dear son, and let us all make, with God's permission, a family in heaven. Your intimacy with Mr. Lawrence and other pious persons will greatly aid you in your onward course. We must continue to get close together.

Colonel Bailey, your sister and children, have all gone to Lanahassee, where they will stay while he goes to Stewart and Randolph Courts. *Still, I desire you to go.*

Go, my dear son, and go ahead. You can speak as well as the best of us, I am confident, if you will but try; and it is a duty you owe the public, your devoted parents, and to yourself, to throw off that sickly delicacy and diffidence, and exhibit your gifts and not keep them hid under a bushel.

GADSDEN COUNTY, FLORIDA, March 18, 1850.

Without accident your sister and myself, a week ago, arrived here, and found all in good health and cheer and with open arms to receive us. The colonel* lives within a mile of the old place, and, though his habitation is not magnificent, yet it is very convenient and comfortable. They all say, both here and at Quincy, that they will be most happy to receive you, and shall expect your intended visit.

The country about here is spotted, generally poor, but their hammocks rich and productive. It is a good country for the poor and those in medium circumstances. Corn, cotton, and tobacco are the products, and each family make their sugar and syrup. Tobacco ranges from twenty to sixty dollars per hundredweight, according to quality. The highest price is given for cigar-wrappers. Within two miles is the Ochlochney, a little river abounding in fish; and thirty-five miles off they have Shell Point and the bay, where they get fish and oysters by the wagon-load. But the lower part of Leon and upper part of Madison county, Florida, is, in my judgment, a better country. Give yourself time, and come and see.

Our miserable Legislature has changed the time of the Superior Court of Macon county to the fourth Monday in this month: hence my visit is cut short, and on the day after to-morrow I must part with those I so much love, and wend my way to Lanier. But for that, I should have come by your house.

Say to dear Lucy Ann that her namesake here is a precious, sweet, beautiful little thing like herself; and to Kit, that his cousin Willey is a noble, sensible, good being like him. Surely never was a grandfather blessed with finer grandchildren. And to dear Elizabeth, Ridgely, Martha, and the rest, God bless them ever and ever. The farmers and planters here take things very leisurely. They are not as forward here as in Houston.

The letter of January 27, 1835, was addressed to his son at Augusta, while attending the law-lectures of William Tracy Gould, Esq., four other letters to Talboton, where his son located for practice, and three letters while he was in the army, "Captain Bush's company of Talbot volunteers," to the care of "Doctor De Graffenreid, Columbus;" and the remaining letters were directed to him at Macon, when the judge was on the circuit.

* His son-in-law, Colonel Horton.

The reader will perceive from the tone of these letters that Judge Strong cherished a deep religious principle, which sustained him in the many trials he was called to experience, owing to the generosity* of his nature. Besides, there is genuine, practical wisdom in all his instructions to his son,—the manner in which he should read to improve his understanding and fix principles in his memory; how to observe office-hours and a prompt business-system; and—much to be valued by those possessing the infirmity—the method of conquering diffidence in public speaking. While his son was serving in the Creek War, what tenderness and patriotism did he exhibit! the father breathed in every line. When prosecuting his law-studies, how earnestly did he open the field of labor and enjoin prudence in regard to both mind and body! But the letters display their own merit,—father conversing with son in the strictest privacy, and yet in fine taste. Not a word drops to excite a blush or to lower the highest aspiration. All is upward and onward for the ennobling of character.

The author again recurs to the ancestry of Judge Strong, for the purpose of introducing the large expectations he once had as a lineal descendant of Baron De Graffenreid. Several years ago, Col. S. T. Bailey visited Europe to look into this claim, and, if necessary, to prosecute it judicially. Believing that a history of it would interest the profession, the author applied to Col. Bailey for an outline, which he kindly furnished, as follows:—

In the latter part of the seventeenth century, the English Government invited the persecuted Protestant Palatines on the continent of Europe to take refuge in their dominions. This induced them to emigrate to England in such numbers that they soon became burdensome as objects of charity. Queen Anne, in 1711, proposed to Emanuel de Graaffenreidt, a wealthy and leading citizen of Switzerland, then on a visit to England, to colonize these Palatines in some of her American dominions, as he could speak most of the languages of Europe, and his wealth would justify the enterprise. He agreed to the proposition. The queen, by letters-patent, conferred upon him and his heirs male the right and title of a baron of Great Britain; and they entered into a written covenant, that, when De Graffenreid should have settled a certain number of Palatines in the then-unappropriated territory lying in what is now North Carolina, the Government should convey to him and his heirs, by grant, fifty miles square of such tract as he might select, lying in said Province.

The contract was fulfilled on both sides. His colony on the Neuse River was the permanent beginning of the State of North Carolina, and the city of Newbern, founded by him, the first town in the State south of

* Dr. John G. Slappey informed the author that Judge Strong was ruined in his fortune as security for General Daniel Newnan.

Albemarle Sound. He himself afterward settled a plantation in the then more civilized colony of Virginia, where he left his only son, Tscharnar, but himself returned to Europe, and died there in 1735, leaving an estate in Europe valued at half a million. By the laws of the Canton of Berne, there are societies, called Abbayes, for the maintenance and education of the families of deceased members. Membership is secured by the payment of a fixed sum, and the extent of support is regulated by the amount paid in. Three thousand dollars secures the amplest support and education.

On the death of a member, the society take immediate charge of his property and family, so far as to rigidly direct the arrangement of the property and its expenditures until the minors are of age; and, in case of need, they are entitled to support forever after from the Abbaye to which the ancestor belonged. In case the heirs are in a foreign country, the real estate is rented and the money loaned by what is called the Board of Orphans; and they can draw the interest, but can never have the principal sum of money, nor convey the real estate, until they by solemn act renounce their citizenship of Berne and membership of the Abbaye. The De Graffenreids had paid the highest sum, and thereby secured to their families the highest privilege of the Abbaye.

On the death of Baron De Graffenreid, leaving his only child in America, the Government and the Abbaye took charge of his estate. By his will, he conveyed his money and personalty to his son in America, together with all his American possessions. His castle and lands adjoining near Berne he conveyed for life to some one in Switzerland, in satisfaction of some indebtedness incurred in the removal of the Palatines,—remainder to his son in America and the heirs male of his body.

The great wealth possessed by his son in Virginia, and afterward by his family, in connection with the discomforts and perils of a voyage across the Atlantic, and the unsettled state of Europe, prevented the heirs in America from either claiming or inquiring into their rights in Switzerland until the French took possession of Berne in 1798, when they were informed that Bonaparte and the Directory had confiscated their property, or, in plain English, had robbed them, as they did the citizens of Berne when their officers sent off sixty wagon-loads of specie and plate to Paris plundered from the public and private treasuries of Berne. My investigations on the spot in 1839 enabled me to prove by the most authentic records, political and judicial, that the charge against Napoleon and the French of having plundered the Orphans' Treasury was untrue. These records, as well as the testimony of the De Graffenreid family in Berne, prove that, when the French took possession of Berne and commenced their plundering, the keeper of the Orphans' Treasury conspired with one Busigney, a French nobleman living in Berne, to rob the Orphans' Treasury. The plan was this:—Busigney was to demand, at the head of an armed force, the key of the treasury, and threaten Graff, the treasurer, with instant military execution in case of refusal.

After thus perpetrating the robbery, Busigney wrote to the heirs in America that the French were the robbers. This tale was the more likely to be believed from the known fact that a De Graffenreid commanded that division of the Swiss army which, in a pitched battle, routed the French under General Brune, covering the field with the dead and wounded and taking from them great part of their artillery, only the day before Schauenburg defeated Erlach and captured Berne. After the restoration of the Swiss Government they instituted a strict inquiry

touching the affair, and, learning the truth, promptly commenced legal proceedings against Busigney and Graff. The latter at once did justice on himself by suicide. Busigney died soon after. The suits proceeded against the heirs for sixteen years, when both estates proved insolvent, so that only about one thousand dollars was realized.

The heirs of the first taker of the castle and real estate contested the legality of the devise, and, after the Government had litigated the question with them in behalf of the American heirs for thirty years, the highest court of resort decided that, by the law of Switzerland, real estate could not be thus entailed,—whereby the defendants gained their suit. This castle, called Worb, six miles from Berne, is still in excellent preservation, and was valued in 1735 at twenty thousands pounds sterling. It was founded in the Middle Ages by a De Graffenreid, one of the followers of Berchthold Fifth.

Such is a brief narrative of how the large estate left by Judge Strong's ancestor in Europe was purloined from his descendants in America.

Having traced the venerable judge from his youth to a ripe old age, glancing at the high positions he held in the Government, it only remains to give a few particulars to complete the memoir as well as the author has been enabled.

Mrs. Strong was a lady of rare accomplishments and beauty, an ornament of her sex, justly the pride of her husband and the delight of her household. Her mind was highly cultivated and her address was perfectly engaging: she had a pleasant, soothing word for everybody, and was kind to everybody. She died in the year 1841. Judge Strong was intensely bereaved. His mind never recovered its sunshine afterward. He often spoke of her virtues, and of his cherished hope of joining her in a better world, where there would be no more separation.

Without comment, the author submits an extract from a private letter which he received from Creed T. Strong, Esq., the eldest son, who for many years has relinquished the practice of the law, and is now a thrifty planter in Sumter county. He says:—

It will be *impossible* for me to answer in detail, and with accuracy, all the questions contained in your letter. I will, however, reply to such as I can, and refer you to Dr. Woodson, who, for the *present*, has my father's family Bible in possession, and will cheerfully furnish you with a copy of the record.

My parents had twelve children:—Mary, Martha De Graffenreid, Creed Taylor, Samuel Miller, Sarah Taylor, Tscharnar De Graffenreid, (pronounced Tischainer,) Lucy Ann, Christopher Billup, Virginia Woodson, Rebecca, Evelina Lamar, and Blake Baker. As well as I remember, my sister Martha married Samuel T. Bailey in the fall of 1829, and died in January, 1847. Virginia was eleven years and some months old at her death in the summer of 1837. Tischainer was about seven years of age at his death. Lucy Ann died, aged two years. I do not remember the precise date of their deaths. Mary, their first-born, died in infancy. Rebecca also

died in infancy. My mother left seven living children. Sister Martha died since the death of my mother. There are, I trust, six of us still living.

Since this letter was written, Blake Baker, the youngest of the family, died in Savannah from yellow fever, in 1854. Both parents, and more than half the children, are tenants of the grave,—no doubt “a family in heaven!”

Judge Strong was exceedingly social and benevolent. The ordeal of adversity had not dried up his sympathies for his fellow-men. In his speeches at the bar, in all his public addresses, and also in conversation, he was very deliberate,—in fact, what might be termed slow of speech,—not for the want of ideas and words, but rather to give them emphasis. He was a most agreeable companion in every circle. The habit of long pauses once gave rise to an amusing incident. Everybody in Georgia has heard of the “gentleman* from Paulding,” who is notorious for wit and humor, and withal a little eccentric. While relating an anecdote, Judge Strong made one of his long pauses, when the gentleman began to whistle a merry tune. “Why, Mr. Jones, I am astonished at you!” said the veteran. “I beg your pardon, judge; I really thought you had finished,” was the artless reply, to the amusement of all present except the judge, who, after giving a hint on manners, resumed his story.

At the hotels on the circuit the room occupied by Judge Strong was generally filled by his brethren of the bar to enjoy his conversation after supper. His stores of anecdote and old recollections were inexhaustible. He was a great admirer of Judge Early, and, previous to the establishment of the Supreme Court, was much in the habit of referring to his decisions as authority. The race of great judges was extinct, in his estimation; nor did the bar afford any more Tom Peter Carneses. All wit perished with Dooly. The present generation of judges and lawyers was worthy enough, and, in some respects, an improvement on the past: still, no flashes illumined the judicial horizon now like those forty years ago!

In person Judge Strong very much resembled Gen. La Fayette when the latter visited the United States in 1824–25. He was a fine specimen of an old English gentleman, freely touched with the Virginia proneness to hospitality and to the merits of pedigree. The judge was no aristocrat in feeling; yet he had conceptions of living, had his fortune permitted, which would have illustrated the best society of the Old Dominion.

* Hon. John A. Jones.

In his annual message, November, 1834, Gov. Lumpkin referred to the action of a majority of the judges in convention, in the following terms:—

The act of the General Assembly passed the twenty-second day of December last, "more effectually to provide for the government and protection of the Indians," and for other purposes therein named, has met with considerable obstruction in carrying into effect the views and intentions of the Legislature,—such opposition and obstruction as cannot be overlooked by the present Legislature without prostrating the rights of her citizens and the sovereignty of our State at the feet of a combination of interested individuals and half-civilized men, supported and sustained as they are by the judge of the Superior Courts of the circuit in which these Indians chiefly reside, and countenanced at least by a majority of the judges of the Superior Courts of this State.

Five of the judges replied to the attack of the Executive by a publication in the *Southern Recorder* of November 12, 1834, as follows:—

VINDICATION OF THE JUDICIARY OF GEORGIA.

The recent message of his Excellency the Governor of Georgia to the General Assembly of the State, in regard to the conduct of the Judiciary in the case of *Walter S. Adair et al. vs. Hugh Hammill et al.*, imposes upon the undersigned the necessity of vindicating themselves from the imputations most unjustly attempted to be cast upon their judicial conduct by the charges and statements contained in that document. This, they believe, may be most easily and effectually done by a simple statement of the opinion expressed by the Convention of Judges upon which the decision of the presiding judge was based, and which has invoked so unexampled and severe an expression by one department of the Government upon the character and official conduct of another co-ordinate and independent branch of the same Government. The bill of complaint contained allegations which presented several distinct questions necessary to be adjudicated in the progress of the cause, or certainly upon its final hearing, but which were not touched by the decision because upon the demurrer, which admits all the allegations of the plaintiffs' bill to be true, there was enough alleged in the facts of the case to require that the demurrer should be overruled without reference to the legal questions presented. It contained an allegation that the Cherokee Nation were the owners and occupants of the territory on which they reside,—a denial of European title by discovery, and an assertion of paramount title in the natives; that the charter from the British Crown conferred no right upon the grantees to disturb the right of occupancy in the Indians; that, being the exclusive owners of the soil, they should of right be governed by their own laws, usages, and customs; that the laws of Georgia had assumed a jurisdiction over the Indians, against which the complainants, protesting, nevertheless claim the protection of those laws so long as the right of government over them continues to be exercised by the State. It refers to various treaties entered into between the United States and the Cherokee Nation, and avers that by those treaties the Indian right of occupancy is recognised. None of the questions growing out of the foregoing allegations in the bill were considered by the

majority of the Convention of Judges, no opinion expressed, and no decision made upon them, it being altogether unnecessary to do so, for the reason before stated. The bill then charged and alleged the trespass and threatened ouster by the defendants pretending to act under authority of a pretended statute of the State of Georgia, which statute, so far as it attempts to give right to dispossess the Indians or interfere with their possession, is alleged to be null and void, because repugnant to the treaties referred to, the Constitution of the United States and of the State of Georgia. We here remark that the question of the constitutionality of the statute of Georgia, raised by these allegations in the bill, was not in any manner touched, or adjudicated, or involved in the opinion expressed by the majority of the convention, or the decision of the presiding judge, made in conformity with that opinion; because, by the succeeding allegations in the bill, the complainants set out rights consistent with the statute of Georgia of 1833, and contended that if the said statute should be considered as constitutional and of full force and effect, that the premises occupied by the complainants were not such as the said law could operate upon, because they say that they are not amenable to its provisions, and that, their possession being joint, the premises aforesaid have been granted out contrary to the statute aforesaid. It will have been perceived that the attempt to dispossess the complainants was made by the grantee and the agent of the State, under the authority of the act of 1833, whilst, by the foregoing allegations, it is also seen that the case of the complainants was not embraced under those sections of that law which authorized that proceeding by the agent, but was, indeed, consistent with the law. The convention referred to the eighth section of that act, limiting the right of occupancy of an Indian to one hundred and sixty acres, and specifying of what that possession shall consist, under which provisions in the statute it was obvious that the allegations in the bill were intended to bring the complainants' case. Upon this clause of the bill the court acted which affirmed that the complainants' right of occupancy was consistent with the act of 1833, and that, under that act, they were not liable to be turned out, not being amenable to those provisions which authorized the agent of the State to proceed against the Indian occupants of granted lots. Passing by all the other questions raised in this case by the allegations in the bill, or supposing them all to be against the complainants, there was, in the opinion of the convention, enough in this part of the bill to entitle the complainants to relief; and the rule is that, if upon the case made by the bill the plaintiff is entitled to any relief, the demurrer must be overruled. It was the imperative duty of the courts thus to act, because the allegations in the bill, admitted to be true by the demurrer, *required* that the demurrer should be overruled. The decision, so far from impugning the act of the Legislature, was in advancement of the act, and the enforcement of rights secured under a particular section of that act.

The only remaining question which presented itself as important in this stage of the pleadings was as to the relief sought. The bill prayed an injunction to prevent trespass, and threatened ouster as contained in the written notice appended to the bill and to quiet the complainants in their possession. It was conceded by the convention that, as a general rule, a court of equity would not interpose to prevent a trespass or threatened ouster; but that in peculiar cases, where irreparable injury might result, the remedy by injunction might be extended. This principle is supported by abundant authority. It was considered that the case made by the bill

was of this character,—that the condition of the Indians was peculiar. The laws of the State had been recently extended over them : they were, to a great extent, ignorant of those laws and unaccustomed to their operation. If turned out of possession of the premises allowed them by the laws of the State, they would be exposed to want and wretchedness, homeless and without a habitation. The whole country had been allotted : there was no spot of earth upon which they could find a lodgment ; and, by the provisions of the ninth section of the same act, any Indian taking possession of any lot to which he was not entitled under the eighth section, and resisting or obstructing, by force or threats, the peaceable possession of the drawer, was not to be considered as an ordinary trespasser, but was made guilty of a high misdemeanor, for which he might be indicted and imprisoned at the discretion of the court. In addition to these considerations, it was believed that the Indians, having always been viewed as being in a state of pupilage under the Government, were peculiarly entitled to its care, to the jurisdiction of a court of equity, and the administration of that preventive justice which a court of equity only can afford.

Having thus stated the opinion of a majority of the Convention of Judges, upon which the decision of the presiding judge was based, it will, we trust, be clearly perceived how utterly unfounded is the charge against the Judiciary of countenancing and supporting a combination of interested individuals and half-civilized men in obstructing the laws and prostrating the sovereignty of the State at their feet ; that it will be further perceived that the court, in granting the injunction, has assumed no powers which are not expressly conferred upon it by the laws and the Constitution of the State, the exercise of which was not only required for the protection of the helpless and weak, but demanded by the justice, the honor and magnanimity of Georgia. It is not known from what *high source* the Executive information was obtained in relation to the argument before the judges ; but it is true that, though the constitutional point was argued and the whole ground of the bill was elaborately discussed by the counsel for the defendants, that the two points mainly relied on by the counsel for the plaintiffs, and the only points decided by the majority of the convention, are those which have been stated,—viz. : the right of the complainants as derived under the act of 1833, and the power of a court of equity to afford the relief sought in the particular case.

The court, we repeat, has assumed the exercise of no unconstitutional power in this case ; but it may well be questioned under what authority of the law or Constitution the Executive assumes the power of determining the jurisdiction of the courts, of pointing out the limitations of power as appertaining to the equity and common law tribunals, and directing the applications of those remedies to particular cases pending before the courts ; and, yet more questionable, the propriety of this highest functionary of the Government influencing the determination of private rights litigating before the constituted and constitutional authority of the country by the expression of opinions made in the grave and solemn manner of an Executive communication to the Legislature, calculated to operate directly upon those rights now pending and undetermined. The grave charge is made that this decision is an interference with the right of trial by jury. We are wholly incapable of discovering this effect as resulting from the decision, since, the demurrer being overruled and the defendants ordered to answer, the case would proceed to trial before a jury upon the final hearing ; and in the mean time, if, upon the coming

in of the answer, the equity of the bill should be sworn off, or the truth of the allegations upon which the injunction was granted be denied, that injunction would of course have been dissolved.

We forbear further commentary upon this extraordinary and unparalleled communication. Our object has been simply to vindicate ourselves from the most unprovoked and unmerited assault upon the purity and integrity of our judicial conduct, to exercise the right, which appertains to every individual in this country of rescuing his reputation from unjust aspersion and transmitting it unsullied to his children.

We deem it proper to state in conclusion that the two distinguished and virtuous men who sat in that convention, and who have since died, Judges Lamar and Crawford, fully concurred in the decision; that Judge Dougherty was absent, and Judges Warner and Thomas dissented.

CHRISTOPHER B. STRONG,
WM. W. HOLT,
WILLIAM LAW,
LOTT WARREN,
JOHN W. HOOPER.

Judge Strong was the first member of the bar the author consulted in regard to these biographical sketches. Heartily approving the idea, he gave the author the names of several gentlemen to address, soliciting their aid in collecting materials for the work. Among the names thus given was that of Thomas Spalding, Esq., of McIntosh county. Judge Strong said, "Write to Mr. Spalding immediately; for, like myself, he is getting old, and you may lose the opportunity of obtaining his valuable recollections." The author did apply to Mr. Spalding, and was courteously answered. From Judge Strong one letter, and only one, was received in furtherance of this work, as the labor of writing was then quite irksome at his age. Had he lived a few months longer, it was the author's intention to spend several days with the judge, taking notes of his conversation, as hinted in his letter, of which the following is a copy:—

VIENNA, 24th February, 1851.

DEAR SIR:—Untoward circumstances and increasing age have prevented my compliance with my desire to give you reminiscences of the Georgia bar; nor can I hope to aid your very meritorious undertaking as I wish to do. But I will endeavor occasionally to drop you some hints, and when we may be together we will converse upon proper subjects connected with your design, and you must *take notes*.

For the present, I would remark that White's Statistics, under the head of Early county, gave rather a tame, but, as far it goes, true, character of the great and good Peter Early, my favorite of the Bench and Bar of Georgia. Avail yourself of what is said there, and, if you please, of what follows.

He received the rudiments of his classical education under the tuition of Doctor Waddell,—that chaste and ripe scholar Mr. Wirt, in his British

Spy, so eloquently describes as the blind parson,—and was then educated and graduated at Princeton College, New Jersey. He then studied law with (I think) Mr. Hopkinson, an eminent lawyer of Philadelphia,—was present at the great Congressional debate upon the reception of Jay's treaty, and heard that wonderful and overwhelming last speech of the great orator Fisher Ames,—saw him fall and borne out of the hall of the House of Representatives. Never shall I forget his bright, tearful eyes as he portrayed that overwhelming scene. That unsurpassed appeal of Mr. A. so completely overwhelmed the whole House and audience that Mr. Giles, of Virginia, arose and observed that it was plain to be perceived that the members were too much excited and agitated to considerately vote, and therefore he moved an adjournment.

Having completed his legal course, Mr. Early returned to Georgia, and next devoted his attention to the study of the Constitution of his adopted State and the United States, and the judiciary system thereof, until the commencement of the circuit of courts for the Western district, when he went with the court and bar around, and attended strictly each court, and made notes of all matters that arose, especially the expositions of the court of the judiciary system and points of practice; and then, and not until then, he applied for licence and was admitted. This was in 1801.

Being thus thoroughly prepared, in 1802 he came to the bar. To all these advantages was added a clear, strong, discriminating mind, wonderfully endowed with the power of analysis and condensation. He interrogated his witness directly to the point, and upon direct or cross examination seemed to have the power of drawing out the desired facts. He seldom spoke more than twenty or thirty minutes. To all these were added a fine form. He was about the stature and size of Aaron Burr,*—square shoulders and well proportioned, of fair and healthful complexion, light brown hair and penetrating blue eyes, of deportment, voice, and manner that proclaimed to all who saw him that he was a MAN. His voice was full, and somewhat authoritative. No wonder, then, that in one year he was in the very front rank of the bar, and in two years at its head. He was truly a noble, honest man, warm friend, always inflexible in the cause of truth, virtue, and justice.

My much-esteemed friend, you must let this suffice for the present, and take from your aged servant the will for the deed.

C. B. STRONG.

P.S.—He was fond of song and anecdote, but never sung, and seldom told stories himself. He was especially fond of a young limb of the law (your humble servant) who was rather choleric and impatient of contradiction, and prone, when his statements were questioned or he was interrupted, to a passionate reply. In private, in the most friendly manner, (when he presided as judge,) he told his young friend it would not do; he feared in open court he would have to rebuke him. The young friend said that he regretted the effervescence of his nature, and was trying, but found he could not restrain it. "Well, then, sir," said the judge, "I will aid you. When I perceive you are going too far, I will put my finger upon my nose; and then you must hold in." "Agreed," was the reply. Some short time after, the young gentleman was earnestly arguing a point of law before the court, when the judge struck his nose with his fingers;

* Judge Strong saw Col. Burr on his trial for treason at Richmond in 1807, and heard Wirt, Wickham, and Luther Martin.

whereupon the advocate dropped upon his seat. "Go on," said the judge; "you were taking an original and interesting view of the subject." "I thought so," was the reply; "but the court might decide the matter."

When the court suspended for dinner, the judge sought his young friend and asked him why he had got in such a pet. "Why, I thought I was orderly, though earnestly, speaking to the point; and why, therefore, did you put your finger upon your nose?" "Why, d—n it," said the judge, "I was only brushing one of Uncle Toby's obtrusive flies away which had lighted upon it." The young man, if not cured, was greatly amended of his fault. Now, you will judge whether the above is worth something or nothing, and act accordingly.

One more recollection. Mr. Giles, and other distinguished advocates, held him in such high estimation, that they thought if he had been appointed manager of the trial of the impeachment of Judge Chase, that the result might have been different. Mr. Randolph was, as such, out of his proper element. C. B. S.

The scene is now closing. The last time the author saw Judge Strong was on the third day previous to his death, at Perry. He was then in health apparently, and quite cheerful. On the night of the first day of May, 1851, he expired! An account of his last moments, by Col. D. C. Campbell, then editor of the *Federal Union*, is here given from his paper of May 6, 1851:—

DEATH OF HON. C. B. STRONG.

The numerous friends of Judge Strong will be pained to learn of his demise. He was in attendance last week at the Superior Court of Houston county, and in the enjoyment of his usual health and spirits. On Thursday night, after having spent the evening with a number of his friends cheerfully and with his usual vivacity, he retired to rest. The next morning he was found in his bed a stiffened corse. So gently did his spirit take its exit, that Judge Stark, who occupied the same room, was ignorant of the event till after he had left the chamber and been summoned to breakfast.

Judge Strong has long been prominent in Georgia. For a greater number of years, we believe, than any one else, he has occupied a seat on the bench of her Superior Courts. If not the senior, he was among the oldest practitioners at the bar in the State. He has descended to the grave at the maturity of man's allotted years, after an active and useful life, leaving behind him many mementos of his ability and worth, and numerous friends who will deplore his death, venerate his name, and cherish his memory.

But the day before his death we had a long and social interview with Judge Strong; and it is due to his memory that the subject discussed, and his views upon it, should be presented to the public. It is well known that Judge Strong, a native Virginian, was an enthusiastic disciple of the Virginia republican school; that nevertheless for years past he has been a leader of the Whig party in Georgia; and that within the last few months he has repudiated the action of that party and taken a prominent stand among the friends of State rights and Southern rights. In the interview

to which we have referred, he stated that his recent course had been grossly misrepresented; that he abandoned his old Whig associates because they had abandoned their State-Rights principles; that their new Constitutional Union party was a misnomer,—it should be called the *consolidation* Union party; that that party gave indications, as they were now acting, that they would ultimately yield all the rights of the States and by their concessions involve the South in all the horrors of emancipation; that he was now, as he ever had been, a republican, an advocate of State rights; that the Democratic party had not abandoned the republican faith; that he was prepared to act with any, he cared not who, who would sustain that creed; that names were of no consequence, and that he was willing to take the name of Democrat, or any other name, so that he could sustain a creed upon the maintenance of which he believed the Union and the liberties of the people were involved. He cordially approved the Wilkinson platform.

In this way he defined his position; and, in order to save his course from misapprehension, he wished that position defined before the public. When we left him, it was with the understanding that he would address us a letter, presenting the views of which we have given but an outline for publication in this journal of to-day. Had his life been spared a day or two longer, the public would have been advised from his own pen of the position he had assumed and had determined to occupy.

Allusion having been made by Col. Campbell to the Wilkinson platform, as exhibiting the latest political opinions of Judge Strong, the platform itself is subjoined as an act of justice. It was adopted at a public meeting of the citizens of Wilkinson county, in April, 1851, and is copied from the *Federal Union* :—

THE WILKINSON RESOLUTIONS.

As meetings are now being held for the appointment of delegates to the Convention on the 20th of May, we again lay before our readers, and commend to notice, the resolutions adopted in Wilkinson :—

“*Resolved*, That in the present eventful crisis of our country's history, when all the tendencies of the Government are to the consolidation of its powers, that it is essential to the preservation of the Constitution in its purity, and of the liberties it was designed to secure, that those great fundamental republican principles should be cherished and sustained which have conducted our country to the proud elevation which she now enjoys among the nations of the earth.

“*Resolved*, That among these great fundamental republican principles we recognise as cardinal and paramount that the Federal Government is a Government of limited powers, having no control over the States or the people thereof, except that expressly conceded, or that necessary to carry into effect conceded powers; that, as a necessary consequence, the States are sovereign as regards all the rights not there conceded; and that it becomes the people thereof at all hazards, as they love the Constitution and the Union, vigilantly to guard and protect themselves against all encroachments upon those rights reserved to the States.

“*Resolved*, That these doctrines, taught and illustrated by Jefferson and Madison,—doctrines which gloriously triumphed in 1800,—have ever

been recognised and adopted by all *real* republicans; and that they are doctrines concerning which Troup men and Clark men, Union men and State-Rights men, in Georgia, never heretofore differed.

"*Resolved*, That these are now, as they have ever been, the doctrines of the Democratic party; and we still hold their maintenance essential to the preservation of the Constitution, the Union, and the liberties bequeathed to us by our fathers; and that inasmuch as the States of the Southern section of this Union are in a doomed minority and vitally interested in an institution secured by the Constitution, it is suicidal, especially on their part, not pertinaciously to adhere to it as the sheet-anchor of their safety.

"*Resolved*, That upon the agitating question which now divides the North and the South, Georgia, in her sovereign capacity, by her Convention in December last, defined her position; that, as Georgians *loyal to the expressed will of the people*, we acquiesce in that position, and pledge ourselves to sustain it, and to do all that we can to see that Georgia 'takes no step backward.'

"*Resolved*, That we approve of the convention proposed to be held in Milledgeville by the friends of republican principles, of democracy, and of the rights of the States, which can be no other than the friends of Southern Rights, for the purpose of nominating a candidate for Governor, and earnestly but respectfully suggest that the convention assemble on the last Wednesday in May next."

The day before his death, Judge Strong addressed a letter to his young friend, Theodorick W. Montfort, Esq., then of Knoxville, but now of Oglethorpe, and Solicitor-General of the Macon circuit, which, as being the last he probably ever wrote, the author has been permitted to copy:—

PERRY, April 30, 1851.

DEAR SIR:—I hope you have received my last. I have since ascertained that the firm at — is — and —: they are worth at least \$50,000, real and personal property, besides stock in trade, &c.; prudent, safe men.

In an election in Dooly for tax-collector, with a half turn-out, our State-Rights Democratic candidate beat the Union men one hundred and ten votes; and, if we will but be united, we can do it through the State. While the Union consolidation party are laboring to gull and hold on the deluded Democrats who had gone over to them, we must be careful not to drive off the Whigs who have come to us. Some of them are squeamish, and wish to preserve at least the appearance of consistency. This may be done by a recognition of State Rights to which both parties (I speak of the rank and file) subscribed in 1832–33. This the Wilkinson resolutions have done, and which I think the most practical platform which can be adopted to hold on to what we have got and beat the Federalists, which I trust in God we may do. Do show this letter to Howard and others.

I wish it distinctly known that I consider the Whigs as utterly having fallen from grace, and as so far and completely having abandoned their State-Rights principles proclaimed by them in 1833 as forever to have forfeited my confidence and co-operation.

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I am with the Southern State-Rights party, now and forever, come weal or woe, and therefore beseech that there may be no strifes among us. I care not a groat what they may call *me*. The body of the Democrats are with me, and I am heart and soul with them.

As to the proper candidate for Governor, I care not for myself whether he has heretofore been called a Democrat or Whig, so he is sound now. It would be best to seek some man of the people who is generally known and loved by the people; for such candidate has been seldom started without victory. Whereas, if mere politicians start a candidate, the people will be cold and indifferent; but when they indicate one of their own men, then they go it with a rush and secure victory.

The North are boasting already that the Union is stronger than slavery; and it will not be long before they will prove that it is stronger than the right of trial by jury, liberty of the press, and one other guarantee in the Constitution,—or, in fact, of doing what they please.

God prosper and grant victory over —, and the Federalists, and the devil!

C. B. STRONG.

As our friends are making an effort throughout the State to unite upon the Wilkinson platform, I think it best that we should avoid any thing like an explicit recognition of the Georgia Convention submission. In a word, I believe united we can succeed; divided, we will fail. All strife we must avoid.

C. B. S.

The sudden death of Judge Strong created a deep sensation throughout the State. Proceedings of the bar were had in several counties to testify respect. This memoir will conclude with a copy of those at Perry, where he died. It is a melancholy privilege to record that Rufus W. McCune, Esq., who reported the annexed resolutions, has since gone to the grave. He died about the 1st of February, 1856, scarcely in the prime of life.

HOUSTON SUPERIOR COURT, Friday morning, 2d May, 1851.

At the opening of the court this morning, on motion of Col. Poe, (on account of the death of Judge Strong,) the court was adjourned until to-morrow morning, eight o'clock.

When the members of the bar called his Honor Judge Stark to the chair, and Amos W. Hammond was appointed Secretary.

On motion of Solicitor-General McCune, Gen. Warren, Col. Cobb, Mr. Hall, and Mr. Stubbs were appointed by the Chair to prepare and report resolutions suited to the occasion, at half-after 7 o'clock, on to-morrow morning.

On motion, a committee, composed of Messrs. Hall, Stubbs, Rogers, and Gen. Warren, was appointed to act in concert with the citizens and others to superintend the funeral.

On motion, the meeting of the bar adjourned until to-morrow morning, half-after 7 o'clock.

Saturday morning, half-after 7 o'clock, the members of the bar met according to adjournment, when Solicitor-General McCune, Chairman of the Committee appointed to prepare and report resolutions suited

to the occasion, made the following report, which was unanimously adopted :—

HOUSTON SUPERIOR COURT, April Term, 1851.

The Hon. Christopher B. Strong is dead !

He, who two days ago was among us full of life and health, now sleeps in death !

Death at all times and under all circumstances is calculated to produce melancholy and sadness ; but, when it comes unannounced and unheralded by the ordinary warnings and snatches from our midst one honored and beloved, the melancholy and sadness become profound and marked.

Our deceased brother and friend entered upon the discharge of his professional duties the present term of the court with his accustomed energy and zeal, and with apparently reinvigorated health.

The term had progressed four days, and he was constantly in his place and attentive to his duties.

He enjoyed on the evening of the 1st inst. the pleasures of a May party in this village, and, as he freely mingled among his friends, both young and old, contributed very greatly to the mirth and hilarity of the gay *fête*. After returning to his room and conversing with some friends, he retired at an early hour, and in the morning was found dead in his bed ; he having died apparently without a struggle or a groan. Thus are we solemnly admonished that “there is but one step between us and death,” and that “in the midst of life we are in death.”

Christopher B. Strong was a native of the State of Virginia, but emigrated to Georgia, when quite young, with his father, where he resided during the whole of his long and eventful life. He entered upon the practice of the law in 1808, and, by means of the native powers of a gifted intellect and his singular ability as a public declaimer, he was at once thrown into lucrative employment in his profession.

At a very early age he was promoted to the bench, in which office he continued for a number of successive terms, adorning the ermine with an ability, honesty, and inflexible firmness rarely equalled. His impress is therefore strongly marked upon the judicial history of Georgia. Judge Strong, as has been before fitly remarked, was emphatically the “Nestor of the bar.” Although for very nearly half a century engaged either at the bar or upon the bench in the active duties of his profession, and often thrown in fierce collision with members of his brotherhood, there is no man, living or dead, who ever charged Judge Strong with professional dishonor. Though the deceased had chosen the former as the theatre of his labors, he had a magnanimous patriotism that would make any sacrifice for the good of his country. When his adopted Georgia, that he so much loved, called upon her sons to protect her soil from the incursions of a savage foe, Judge Strong cast aside his law-books and briefs, and exchanged the endearments of friends and home for the privations and perils of the camp. As long as the history of Ottasee and Callibbee survives, the remembrance of Col. Strong’s services upon his country’s battle-fields will be perpetuated.

When quite young, Judge Strong married a beautiful and accomplished lady in the State of Virginia, for whom he entertained the most ardent attachment. Though she has been dead many years, yet, true to the affection of his early manhood, he never married again, and to the last day of his life fondly cherished the memory of her worth and virtues.

Our deceased friend encountered many afflictions and painful misfortunes, but he met adversity with a Roman fortitude honorable to his memory.

As a parent he was indulgent, kind, and affectionate, a true and steadfast friend, an honest, patriotic, and charitable citizen. Judge Strong was for a number of years before his decease a member of the Episcopal Church, and we are allowed to hope that his spirit has found a resting-place with his Savior and his God.

While the court is arrested in the discharge of business and thrown into sudden gloom and sadness, it becomes us to bow in humility to that inscrutable Providence which has thus afflicted and bereaved us.

In view of the death of Judge Strong, the committee present the following resolutions :—

Resolved, That the members of the bar here assembled deeply feel the loss they have sustained in the death of their brother, Christopher B. Strong, who was respected and loved by them all.

Resolved, That to his friends it is a matter of mournful gratulation to reflect that he passed away in the maturity of ripe age, known, beloved, and respected throughout the limits of the proud State which he had made the home of his adoption and affection.

Resolved, That, as a further mark of respect, we will wear the usual badge of mourning for thirty days.

Resolved, That the presiding judge be requested to have these resolutions entered upon the minutes of the court, and that the clerk send a copy to the family of the deceased, and that they be published in the public gazettes of the city of Macon.

After which, on motion of Solicitor-General McCune, the meeting of the bar adjourned *sine die*.

JAMES H. STARK,
Chairman.

AMOS W. HAMMOND,
Secretary.

The proceedings of the members of the bar upon the melancholy occasion of the death of the Honorable Christopher B. Strong, former Judge of this Court, having been communicated to the court,—

It is, upon motion of Rufus W. McCune, Solicitor-General, ordered that said proceedings be entered upon the minutes of this court, as a perpetual memorial of the regard and esteem in which the court holds the memory of the illustrious deceased, and as an undying token of the feelings of kindness and admiration which his brethren of the bar entertain for him.

A true extract from the minutes of Houston Superior Court, this May 5, 1851.

WM. H. MILLER, *Clerk.*

NOTE TO THE MEMOIR OF JUDGE STRONG.

In the narrative, the claim of Judge Strong to certain estates in Switzerland has been noticed. Since then, the author has

been furnished by Col. Bailey with the following additional particulars, for which he is under great obligations to his respected correspondent :—

As touching the fortunes of the family in America, a few facts may not be uninteresting to the general reader.

The patent of nobility in the Latin tongue, and written on parchment, dated 1711, making Emanuel de Graffenreid a baron of England, by Queen Anne, to him and his male heirs forever, together with the seal and gold star and many of his letters, are now in the possession of John De Graffenreid, Esq., of Dougherty county, in this State, one of his lineal descendants.

In one of his letters the baron details a very remarkable incident that occurred touching this same star on one occasion when he accompanied his surveyor, Lawson, into the interior, in running the lines of his colony. The Indians, becoming alarmed at seeing so large a part of their country marked off, notified the surveyor that he must desist. Finding that their warning was not heeded, they gathered their warriors and fell upon the surveying-party in their camp at night, and put to death all but the surveyor and the baron on the spot. These they took alive, and proceeded to prepare a big fire, saying they would roast and eat them for supper. When they had killed Lawson, and were barbecuing him, De Graffenreid, remembering to have heard it said the Indians never put to death a chief, sought an interview with their leader and asked him "if it was not unlawful to kill a king." The Indian answered "it was." The baron replied, "I am the king of the Palatines," and exhibited his star as his insignia. This saved his life, the Indians deciding he must not be hurt, but must leave the country. A long and bloody war between the Indians and English followed.

In the beginning of this century, the heirs of this vast estate in North Carolina employed William Johnson, Esq., of Charleston,—afterward one of the Judges of the Supreme Court of the United States,—to investigate their title to the property, and, if not barred, to bring suit.

After looking into the whole affair, he gave it as his opinion that the statute of limitations barred them.

The baron, having borrowed money of one Pollock* before leaving for Europe, to enable him to support his colonists, had given him a mortgage upon the grant to secure repayment; but, dying before returning to America, it had never been redeemed nor foreclosed. In the course of time, Pollock parcelled out the whole to his family, and others, who now hold by lapse of time.

The Revolution, cutting the connection between the mother-country and the Colonies, at the same time cut off all titles of nobility. Yet every one of the descendants of the baron were Whigs, thereby jeopard-

* An ancestor of the late George Pollock, Esq., the wealthiest man in the South. He was killed in 1839 by a young and spirited horse rearing and falling backward upon him, while riding over his plantation on the Roanoke. Mr. Pollock was an Englishman, and, it is said, had received the order of knighthood from the king. He possessed several large estates in North Carolina, working some two thousand slaves. The town of Newbern, planted by the Baron de Graffenreid, was his ostensible residence. Most of his time, however, was spent in Philadelphia and in Europe. He was never married.—M.

izing their title and large estate; and two of them joined the Continental army when Tarleton and Cornwallis invaded the South,—thus vindicating the Swiss blood, whether patrician or plebeian, at home or abroad, ever on the side of patriotism, from the days of Julius Cæsar down to the present time. But what a lesson does such a retrospect teach! How fleeting and how vain are all human affairs, whether high or low! Less than a century and a half ago, Baron De Graffenreid, the wealthy courtier and favorite of princes, the owner of ancient baronial possessions in Europe, coming down in his family through centuries, and with a domain in America larger than a dozen German Principalities and larger than his native Switzerland, fondly hoped to make his name immortal and his family the most powerful of the English nobility; when, behold, his castle and large estates in Europe have been lost to his family, his descendants in America long since stripped of both their great domains and the ennobling title descending to them from their ancestor who sleeps in death beyond the sea; while the insignia and patent of his and their nobility are kept as curious rubbish (but whose Latin and heraldic ciphers he cannot make out) by one of his descendants, in an obscure corner of Georgia. Certainly, *vanitas vanitatum* is written upon all things earthly.

Since the preceding notice of Baron De Graffenreid was written, Judge STRONG, another of his descendants, has died, and the grave stilled forever as large and noble a heart as ever beat in human breast. His father was an Episcopal clergyman, and his mother a De Graffenreid. He was born in Virginia, and when he was about five years of age his parents removed to Wilkes county, Georgia, where they died, after a long life well spent.

When old enough, Judge Strong returned to Virginia, to study law with the celebrated Chancellor Taylor; and, after being admitted to the practice of the law in Virginia, he married the sister of Mrs. Taylor, Miss Lucy Woodson, a lady remarkable for her beauty and accomplishments, and soon after settled permanently in the practice of the law in Putnam county, in this State, doing a large and lucrative practice, until the Governor called upon her citizens, in the war of 1812, to rally to the defence of the State.

At the call, Judge Strong, surrounded by his young and happy family and all the blandishments of wealth and refinement, promptly forsook all, and, at the head of a company of cavalry, followed the gallant Floyd through an unbroken wilderness of two hundred miles, to meet in this stronghold the numerous Indian enemy. In the two hard-fought battles of Calleebee and Autossee, Gen. Floyd effectually crushed the power of the Lower Creeks and secured the peace and safety of the Western frontier. In these bloody and hard-fought battles Judge Strong bore a conspicuous part, charging the enemy at the head of his men, and receiving the applause of his commanding officers. Gen. Floyd spoke in the highest terms of his gallant bearing; and, as an evidence of his cool bravery and goodness of heart, the general related to the writer this anecdote:—

The judge was mounted on a fine roan horse, well trained and of great sagacity. In one of his terrible charges, a rifle-ball passed directly through the old roan, piercing both skirts of the saddle; and at once, instead of heeding his own peril and the thickly-flying balls, seemed wholly absorbed in sympathies for his favorite horse, and proceeded to help him up. To the surprise of all, the animal had strength to stand and walk. But, while they were furnishing him with another horse, the judge hur-

riedly committed Old Roan to his servant, with directions to walk him slowly home to Putnam, two hundred and fifty miles, and carefully nurse him until he should die or recover. At this juncture an aid of the commander-in-chief rode up and said, "Strong, let the old roan go to the devil and die, while you attend to the Indians." "I'll be cursed if I do!" was the reply; "Old Roan has carried me safely through too many dangers for me to desert him in his distress."

Old Roan finally reached home in safety, and recovered. I have heard Mrs. Strong relate, with tears, how she wept, and kissed the wounded and faithful old war-horse, on his arrival home.

It is believed, by those who knew him best, that Judge Strong was insensible to personal danger; and yet his heart was ever touched with sorrow for every thing in distress, however humble. After the war, he resumed the practice of the law with great success, and was soon elected Judge of the Ocmulgee circuit, after repeatedly refusing to be a candidate. He was several times re-elected to that and the Flint circuit, and discharged his duty to the satisfaction of all honest men.

While he resided in Putnam, the judge became surety to a heavy amount for an old army friend, the whole of which he had to pay, absorbing his whole estate. He gave up every dollar's worth of his large property, leaving him a bankrupt, with a debt unpaid hanging over him for years, absorbing all his earnings, and rendering his old age miserable so far as this world was concerned. But his religious faith was strong and enduring of a better world beyond the grave. He was a member, in his latter years, of the Episcopal Church. His piety was apparently deep and sincere.

Judge Strong's life is an instructive one to the young. He served the State with great fidelity, encountering many privations and sufferings in the public service, without any adequate reward either to himself while living or his memory when dead. While he perilled his life and his fortune for the State, giving up all the comforts of life, no county, no village, perpetuates his name,—while the names of inferior men and foreigners, and some of them notorious enemies of the State, cover the map of Georgia. This lesson respects the warning to the young:—"Put not your trust in princes, nor in the sons of men." The calamities which followed his suretyship repeat the lesson of Solomon:—"If thou be surety for thy friend, deliver thyself as a roe from the hands of the hunter, and as a bird from the snare of the fowler."

In person, Judge Strong was about five feet ten inches high, and what is called stocky, with a large Roman face, and an eye large, black, and of remarkable brilliancy,—features inherited from his mother, and which are still to be seen in paintings of some of the family in Europe centuries ago, showing the perpetuity of the distinct blood of races.

XXX.

WILLIAM H. TORRANCE.

THE gentleman now introduced, historically was one of the ablest lawyers who ever appeared at the Georgia bar. His mind was eminently judicial, luminous in argument, and inexhaustible in authorities. He was entirely self-made. Without patronage in early life, he made the most of his opportunities; and in ten years from the date of his admission to the bar he stood among the foremost.

WILLIAM H. TORRANCE was born in Union district, South Carolina, on the 5th day of March, 1792. His father, Andrew Torrance, was a native of Scotland, whence he emigrated to the Colony of Virginia in 1766. He was a man of liberal education, and was the intimate friend of Judge Roan. Soon after the Revolution broke out, he entered the Continental army, and was appointed quartermaster, in which capacity he served until the close of the war. He then removed to South Carolina, and settled at a place well known as the Cross-Keys, in Union district. In the year 1789, he married Esther Howard, sister of the late Maj. John Howard, of Milledgeville. Mr. Torrance the father removed with his family from South Carolina to Baldwin county, Georgia, in the spring of 1811, where he died the 1st of July the following year.

Until his fifteenth year, WILLIAM was in feeble health. At the age of five years he was sent to a country school, and continued there three years, during which time he had made fair progress in learning. Soon as his age permitted, he was placed in the store of Mr. George Gordon, a Scotch merchant at Cross-Keys. Thence he was transferred to Laurens district, in the mercantile house of John & William Black, also Scotchmen, with whom he remained until the embargo of 1809 caused them to discontinue business. He then returned to the paternal home, where he engaged in the labors of the farm. From this situation he entered the service of his country, at an age when youth is generally fired with the military passion.

In 1813, he volunteered as a private soldier in the company of

Captain Joseph Howard, and was stationed at Fort Hawkins. Here he received the appointment of private secretary to Gen. John Floyd, and was afterward present with that distinguished officer in the hard-fought battles with the Indians at Autossee and Calibbee, in the then territory of Alabama. Mr. Torrance was well qualified for the duties to which he had been selected. His neat and ready penmanship, his courteous disposition and unwearied industry, greatly facilitated the labors of his patron in making out orders and reports and in keeping a journal of the campaign. The valuable manuscript history of several Indian tribes, by Col. Benjamin Hawkins, the Agent of the United States Government, was committed to the care of Gen. Floyd, in order to acquaint him with the localities of the enemy, and to furnish other useful information which he could obtain from no other source respecting the number and habits of the Indians. This history was deposited with Mr. Torrance, who occupied much of his leisure in glancing over its pages. Fragments of this work by Col. Hawkins (who received the Agency from President Jefferson, and was requested by him to collect all the information he could relative to the tribes within his jurisdiction) have been published, and the whole of it may perhaps be in the Executive Office at Milledgeville.

At the close of the campaign under Gen. Floyd, Mr. Torrance again volunteered, in Captain Horton's company, which was organized at Sparta, where he was appointed quartermaster's sergeant; and, on the arrival of the company at Fort Jackson, the post of forage-master was given him until the army was disbanded, on the reception of peace.

In the same year—1815—he entered as clerk in the store of Stewart & Hargrave, in the city of Augusta, where he continued three years, at the end of which time he engaged in a cotton-speculation in partnership with Mr. John W. Wilde, which proved disastrous and drove them both to the practice of the law. What seemed a misfortune then opened the way to prosperity and reputation in another pursuit.

For the particulars respecting the parentage and early employments of Mr. Torrance the author is indebted to the late Amelius Torrance, Esquire, of Baldwin county, a brother. At the request of the author, a gentleman* who for more than twenty years was the intimate friend of Mr. Torrance has furnished a sketch so admirable that it is here given without abridgment:—

* Hon. Joel Crawford.

To the number of professional men who, without the advantages of early education, have attained eminence, no State, it is believed, has made larger contributions than Georgia. Until within the last thirty years, respectable schools were to be found in very few counties, and were, of course, accessible to none but the children of wealthy parents. That so many of those who have given proofs of great intellectual power at the bar, in the pulpit, and in the practice of medicine, have been reared up without these advantages, however encouraging to future aspirants, by no means justifies the conclusion that academies and colleges may be dispensed with. Such gifted men as Watkins, Walker, Flournoy, and Torrance, under the circumstances which favored their individual success, found resources in their own genius, industry, and ambition which were more than equivalent to the best scholastic training in humbler minds. That each of these men, with early and thorough learning and like impulses to effort, would have mounted far higher in the scale of professional distinction, can hardly admit of doubt.

WILLIAM H. TORRANCE was born in South Carolina, of poor parentage, about the year 1792, and, at the first settlement of Baldwin county, removed with his father's family to a small farm in the vicinity of Milledgeville. He with his brothers were chiefly occupied with the business of agriculture until he had nearly or quite reached the age of manhood; but, with his scanty opportunities, he made attainments which qualified him for the duties of a clerkship in a retail store and for reading good works in the English language. His love of books had been often remarked by his acquaintances, but was never so fully gratified as during a residence as merchant's clerk in the city of Augusta. Here he made the acquaintance and engaged the friendly aid of that gifted and generous man, Richard Henry Wilde. Under his direction, young Torrance gave all his spare hours to miscellaneous reading and the sedulous study of the law. In due time, but after he had attained ripe manhood, he passed an approved examination, obtained a licence to practise, and opened a law-office in Milledgeville. His prospects were by no means bright; but he was not the man to sink under discouragements, one of the greatest of which was that nervous sensibility under the morbid influence of which men of dauntless courage are sometimes subdued by the presence of a court or popular assembly. This defect, in his case, is to be ascribed, in a great measure, to the total lack of early practice in the art of declamation. For nearly three years after coming to the bar, it is believed, he seldom or never attempted to address an argument to a jury; but in discussing law-questions before the court he felt himself more at home, and he here gave to the public the first evidence of his professional learning. Before he shed the restraints of early diffidence, his moral rectitude of deportment, industry, and attention to the business of clients had gradually increased his practice; but it was not until about the fifth year that public opinion conceded to him that high reputation which he maintained through life. His services in great cases were eagerly sought, the fruits of which were seen in the rapid acquisition of fortune, which few men knew better how to use and enjoy than William H. Torrance.

Mr. Torrance was never master of a graceful and flowing elocution. His rank arose from profound knowledge of law, quick and accurate discernment of the essential elements of his case, and the imposing manner in which he drew his logical inferences. These qualifications, combined with untiring industry, unsullied probity, and great ability at the bar, con-

ferred upon him an enviable popularity. He seemed, however, ambitious only of professional fame, having never sought or accepted office.

Mr. Torrance married the third daughter of Peter Crawford, Esq., of Columbia county, whose untimely death probably contributed to shorten his own life. He survived her but a few days, or weeks, leaving three children—two daughters and a son—to the testamentary guardianship of their maternal grandmother, by whom they have been carefully nurtured and educated. His son—a robust and promising youth, who is still at school—will live, it is hoped, to appreciate the worthy example of his father's life and to emulate his high reputation.

Knowing that Mr. Torrance kept up a large correspondence with professional and public men, and believing that letters existed among his papers of great value, the author applied to the late Mansfield Torrance, Esquire, of Columbus, on the subject of an examination, from whom he received a letter, of which an extract is given:—

I have just written the sketch, (at the instance of Major Crawford,) and only want a few dates, which I must get from Colonel Jones; and, if not too late, I will furnish it as soon as I can hear from you. I hope it will not be too late. The sketch is brief, and will not cover more than five or six manuscript pages. As his executor, I have all his papers, and might possibly, with much labor, find a letter or two worth publishing; but most of his letters were private. I know no anecdotes worth publishing; and he never pretended to be a wit. Of course we were much together, but seldom together on the circuit, as I practised in Western Georgia.

If access could be freely had to old letters, to which no great importance was attached at the time, many facts would appear in politics, in law, in literature, and in the current history of the times, far beyond what may be generally supposed in point of public interest. The author has seen in possession of Mr. Torrance original letters to him from Mr. Jefferson and Chief-Justice Marshall; and, as these eminent men never wrote carelessly or on trifling matters, it is certain something worthy was in the correspondence. All the parties being dead, there was no longer any seal of privacy. It was the remark of the late Hon. William H. Crawford, that he never wrote a letter in his life which he would object to being published if all the circumstances were known. Such ought to be the frankness of every man. Although the author replied immediately to Mr. M. Torrance, desiring the sketch of his brother which he had prepared, yet he never had the good fortune to receive it. Death has since closed up all possibilities.

An event of peculiar interest in this history of Georgia was the treaty at the Indian Springs, concluded on the 12th day of February, 1825. between Messrs. Campbell and Meriwether, Com-

missioners on the part of the United States, and General William McIntosh, head of the Cowetas, and fifty other principal chiefs on the part of the Creek Nation. The Indians ceded to the United States all the lands claimed by them within the limits of Georgia, and agreed to remove west of the Mississippi previous to the 1st day of September, 1826. For this surrender of their right of occupancy, the United States gave in exchange, acre for acre, lands westward of the Mississippi, on the Arkansas River; and, to pay for loss incurred by the Indians in leaving their homes in Georgia, and to support them in their new settlement, the sum of four hundred thousand dollars was to be given to those who might emigrate.

On the day after the treaty was made, the United States Agent for Indian Affairs addressed to Mr. Calhoun, the Secretary of War, a letter, of which the following is an extract:—

Yesterday a treaty was signed by McIntosh and his adherents alone. Being fully convinced that this treaty is in direct opposition to the letter and spirit of the instructions which I have a copy of, I feel it my bounden duty, as the agent of the Government, to apprise you of it, that you may adopt such measures as you may deem expedient as to the ratification; for, if ratified, it may produce a horrible state of things among these unfortunate Indians. It is proper to remark that, with the exception of McIntosh and perhaps two others, the signatures to this treaty are either chiefs of low grade or not chiefs at all,—which you can perceive by comparing them to those to other treaties and to the receipts for the annuity; and these signers are from eight towns only, when there are fifty-six in the Nation.

This letter plainly showed the opposition of the Agent to the treaty. His conduct became the fruitful topic of investigation, and of bitter controversy between the Executive of Georgia and the Federal Executive,—Governor Troup and President Adams. As Mr. Torrance was selected by the Governor, in a commission authorized by the Legislature, to inquire into and report the facts touching the Agent, a few passages will be here introduced from public documents.

In transmitting the treaty to the War Department, Colonel Campbell, under date of February 16, 1825, says:—

The attendance of chiefs was a full one,—much more so than is usual when *chiefs only* are invited. The opposition was feeble, and seems to have been dictated by the Big Warrior. The death of this chief, I conceive, puts the question at rest. That all opposition will now cease, and that the dissenting party will now treat and reunite themselves with the majority, I have no doubt.

By proclamation of March 21, 1825, Governor Troup announced



the ratification of the treaty by the President and Senate of the United States. This document, to which the great seal of Georgia was affixed by the late Colonel Everard Hamilton, the efficient Secretary of State, concluded as follows:—

All good citizens, therefore, pursuing the dictates of good faith, will unite in enforcing the obligations of the treaty as the supreme law, aiding and assisting the magistracy in repressing and punishing any disorder or violence which may infringe its provisions. And all officers, civil and military, are commanded to be vigilant in preventing offences under it and in detecting and punishing offenders.

The Governor saw no reasonable necessity for waiting until the Indians had actually departed before the country should be surveyed and prepared for distribution among the citizens of Georgia. After many efforts to obtain the consent of the Indians, the head-chief McIntosh, under date of April 12, 1825, thus wrote to Governor Troup:—

Some difference existing between the present agent of the Creek Nation and myself, and not having any confidence in his advice, I have determined to act according to the dictates of my best judgment, which results in the determination to agree to the request of your Excellency in giving my consent, and, in behalf of the nation who signed the treaty, their consent, that the land lately ceded to the United States at the Indian Springs may be run off and surveyed whenever you may, or the General Government, think proper to do so.

In another letter to the Governor, of the same date, General McIntosh says:—

In giving voluntarily our consent for the survey of the lands in the late treaty we are actuated by motives of friendship purely toward you and toward your people. No consideration of a mercenary nature could be permitted to enter our breasts when a favor was asked of us, particularly by your Excellency and in behalf of your people. We know the great importance it was to your people to be ready to occupy the country immediately after our removal from it, and have, with true hearts of friendship, acceded to your request. We would have thought it disgraceful in us to attempt to make a condition founded on your wants or desires a price for our acquiescence. The opportunity presents itself, and we hope the circumstances will have only the effect to render ourselves more worthy of your esteem and friendship.

Accompanying this letter was a long memorial (signed by sixteen chiefs) to the members of the Legislature of Georgia, which began as follows:—

FRIENDS AND BROTHERS:—We, the chiefs of the Creek Nation who have sold to the United States a part of the country, and intending shortly to remove to a new country, have thought it our duty to lay before you this our last and farewell address.

Friends and brothers, we believe you and your State have always been

our true friends. Ever since we took hold of one another's hands in friendship we have been as neighbors, inhabiting the same country,—a country which the Great Spirit made to be the home and habitation of his children. The red and white man are all from the same Father, and each of them are entitled to a share in this world of the works of his hands and of the good things he has made for the use of men. The country which you now possess, and that which we now remain on, was by the Great Spirit originally given to his red children. Our brothers the white men visited us when we were like the bees of the forest. Our forefathers smoked the pipe of peace and friendship with the forefathers of the white man; and when the white man said, "We wish to live with the red man and inhabit the same country," we received their presents and said, "Welcome! We will give you land for yourselves and for your children." We took the white man by the hand and held fast to it. We became neighbors; and the children of the white man grew up, and the children of the red man grew up, in the same country, and we were brothers. The white men became numerous as the trees of the forest, and the red men became like the buffalo.

Friends and brothers, you are like the mighty storm, we are like the tender and bending tree. We must now bow before you. You have torn us up by the roots, but still you are our brothers and friends. You have promised to replant us in a better soil, and to watch over us and nurse us.

Friends and brothers, the day is come when we surrender the country of our forefathers,—land of our nativity; our homes,—the places of our youthful diversions. We surrender it to our brothers and friends, and our hearts are glad that we were not forced to do so by our enemies. We go: our people will seek new lands, our hearts remain with you!

In relation to the difficulties growing out of the treaty and the efforts of Gov. Troup to avert them, it is proper to remark that he despatched Col. Henry G. Lamar, one of his aides-de-camp, to the refractory Indian towns Tuk-au-batchee and Cassetau, to deliver to the chiefs and headmen a special *talk*, which opened thus:—

I hear bad things of you. You threaten McIntosh and his people because they listened to their father the President and ceded the lands to the Georgians. They acted like good and dutiful children. You opposed yourselves to the wishes of your great father, who was doing the best for the interest of his red people, and would not sign the treaty. But this you did, as I believe, under the influence of bad men, who pretended to be your friends, but who cared nothing about you. Now, I tell you, take care and walk straight. McIntosh and his people are under my protection as well as under the protection of the United States. If any harm is done by you or any of your people to McIntosh or his people, I will treat you in the same way as if you were to come into our white settlements and do the like. I will pursue you until I have full satisfaction. Do not let bad men persuade you that, because you live in and near to Alabama, you will be safe. If you commit one act of hostility on this side the line I will follow and punish you.

To hear what Col. Lamar had to say, the chiefs immediately

assembled in council. After delivering his message through an interpreter, he added excellent remarks of his own, pointing out the folly and wickedness of their opposition to the treaty and of their bloody threats against McIntosh and his party. As Col. Lamar read documents to the council, he was occasionally interrupted by Ho-po-eithlea-Yoholough and Little Prince, who both disclaimed any hostility to McIntosh and the other chiefs who signed the treaty. The colonel said in council, March 7, 1825:—

We have heard that you have listened to the counsel of bad men; that they have wrought among you an angry excitement; and that McIntosh and his chiefs are to be the victims to appease your exasperated feelings. You are warned to turn from such wicked counsel; and be assured no friend true to the interest of the red man would recommend the gratification of such feelings. If you should attempt it your nation would be divided. Take a number of reeds, bind them close: you cannot break them. Separate them or divide the bunch, and the weakest of you can break them in pieces. This would be the condition of your people. Divided, you would fall, without the power to make one manly struggle. You would be surrounded by white men, who, by reason of your bad conduct, you would make your common enemies. They outnumber the trees in your forest. I have said that McIntosh and those who signed the treaty acted in strict obedience to the request of your father. Listen, and learn his will, and in future let it guide your determinations.

In his report to the Governor, March 10, 1825, Col. Lamar says:—

My own opinion, which is partly conjectural and in part formed from observation and conversation had with some of the Indians, is this: leave them to themselves. If they clearly understand what are the wishes of the President, they will conform to them, (I speak of them collectively as a people.) They have no correct notions of our Government and their relative connection with it. Their conclusion is that the powers of the President are absolute, and that he has an unquestionable right to coerce obedience.

Some of the influences stated by Col. Lamar to have produced opposition to the treaty may be traced in the following extract of a letter from Col. Samuel Hawkins (the interpreter of the National Council) to Gov. Troup, dated April 12, 1825:—

SIR:—I have taken the liberty of addressing you on this occasion, believing you to be the friend of our nation, and of stating to you some facts which relate to the conduct of our Agent, Mr. John Crowell, which I will at any time, if called upon, swear to. When the Agent, John Crowell, first paid money to the nation as their annuity in 1821, he paid it in hundred and fifty dollar bills to the principal chiefs, to be divided by them to their respective towns. The Big Warrior told the Agent at the time that the money could not be fairly divided, for the want of smaller bills, and requested the Agent the next time he paid them off to

bring small bills. Before the Agent had ever met the chiefs in council, his brother, Mr. Thomas Crowell, brought to Fort Mitchell a large stock of goods; and, when the Agent came to the council-house, he told the chiefs that his brother had goods and that he had given him a license, and that they might buy what goods they wanted. The chiefs, having what money was to go to their respective towns of large bills of fifty and hundred dollars, were compelled to go to Thomas Crowell and buy domestic homespun at fifty cents per yard, of the same description of goods that Gen. McIntosh had furnished the nation at twenty-five cents per yard only a few months ago, or to make an unequal division of their money, or go to the settlements for change. At the time the annuity was paid to the nation in 1822, the Agent, John Crowell, again paid off the nation in fifty and hundred dollar bills; and, when the chiefs asked him for change, he said his brother was provided with change or small bills, and at the same time cautioned the chiefs against counterfeiters and said there were a great many counterfeit bills and many suspicious persons about, but that the change which his brother had was genuine. The chiefs, after receiving their respective amounts allowed their towns, went to Mr. Thomas Crowell, the Agent's brother, and asked him to change their money: he told them, the chiefs, (myself acting as interpreter,) that he would give the chiefs of the towns each five dollars in cash, but that the balance of the money must be laid out in goods. Some of the chiefs agreed to do so, but others refused and went off.

The foregoing quotations may perhaps be considered by some as rather too voluminous in the memoir of Mr. Torrance; but, as he acted a conspicuous part in the scenes which followed, these fragments of history are deemed pertinent.

McIntosh was murdered on the night of 29th April, 1825. Passing by the communication of Gen. Alexander Ware, of Fayette county, to Gov. Troup, dated May 1st, detailing the force of hostile Indians engaged in the massacre, the tragedy will be related in language the more touching for its simplicity. From her asylum in the white settlements, Peggy, the wife of Gen. McIntosh, writes to Messrs. Campbell and Meriwether, under date of May 3, as follows:—

When you see this letter stained with the blood of my husband, the last drop of which is now spilt for the friendship he has shown for your people, I know you will remember your pledge to us in behalf of your nation, that in the worst of events you would assist and protect us; and when I tell you that, at daylight on Saturday morning last, hundreds of the hostiles surrounded our house, and instantly murdered General McIntosh and Tome Tustunnuggee, by shooting near one hundred balls into them, (Chilly and Moody Kennard making their escape through a window.) They then commenced burning and plundering in the most unprincipled way, so that here I am, driven from the ashes of my smoking dwelling, left with nothing but my poor, little, naked, hungry children, who need some immediate aid from our white friends; and we lean upon you while you lean upon your Government. About the same time of the morning that they committed the horrid act on the general, another party

caught Col. Samuel Hawkins and kept him tied till about three o'clock, when the chiefs returned from our house and gave orders for his execution in the same way, and refused to leave his implements to cover his body up with, so that it was left exposed to the fowls of the air and the beasts of the forests; and Jenny and her child are here in the same condition as we are.

Jane Hawkins, daughter of Gen. McIntosh and wife of Col. Samuel Hawkins, whose violent deaths are related above, thus bewails her misfortunes in a letter to the Commissioners of May 3, concluding,—

My condition admits of no equal, and mocks me when I try to speak of it. After I was stripped of my last frock but one, humanity and duty called on me to pull it off and spread it over the body of my dead husband, (which was allowed no covering,) which I did, as a farewell witness of my affection. I was twenty-five miles from any friend, (but sister Catharine, who was with me,) and had to stay all night in the woods, surrounded by a thousand hostile Indians, who were constantly insulting and affrighting us. And now I am here with only one coat to my back, and not a morsel of bread to save us from perishing, or a rag of a blanket to cover my poor little boy from the sun at noon or the dew at night. I am a poor, distracted orphan and widow.

Gov. Troup's letter of 3d May to Col. Joseph Marshall, a half-breed chief and a signer of the treaty, is a fine specimen of energetic composition. It is given entire:—

FRIEND:—I heard with sorrow yesterday of the death of our common friend McIntosh. All good hearts among the whites deplore it as much as you. Satisfaction will be demanded, and satisfaction shall be had; but we must not be hasty about it. We will be cool and deliberate in the measures we take, and then we will be certain to be right. You be peaceable and quiet until you hear from me, in the same manner as if nothing had happened to McIntosh or Tustunnuggee; but, depend on it, my revenge I will have: it will be such as we have reason to believe the Great Spirit would require,—such as our Christ would not think too much, and yet so much all red and white men will be content with. Mind what I say to you until you hear from me.

To show that the Governor was in earnest, he issued orders, 5th May, through his aide-de-camp, Col. Seaborn Jones, which, after reciting the outrages upon McIntosh and other chiefs,—

Ordered, That Major-General Wimberly, Major-General Shorter, and Major-General Miller, of the 5th, 6th, and 7th divisions, forthwith proceed to take the necessary measures to hold in readiness their respective divisions to march at a moment's warning, either by detachments or otherwise, as they may be commanded by authority of the Legislature or of the commander-in-chief.

In the mean time, the Governor was not unmindful of the helpless condition of the friendly Indians who had taken refuge in the white

settlements, and he thus wrote to Generals Wimberly and Miller, under date of 5th May:—

I wish you in the distribution of your orders to instruct the different quartermasters, particularly of the frontier-counties, where the Indians are most likely to take refuge under the protection of our arms, to look to their comfortable support by contracts, which you will be pleased to instruct them to form with strict regard to economy. The funds will be advanced by the State, on the credit of the United States or the Indians, and will be reimbursed by one or the other.

Writing to the Governor from Macon, May 6, General C. J. McDonald says:—

A Mr. Freeman—a gentleman no doubt of high character—has just arrived in this place from Alabama with his family: he states that the Indians appear to be in an alarming state of excitement, and, from their general demeanor, so far as it came under his observation, seem determined upon mischief. Their professions, however, so far as he understood them, are entirely friendly to the whites, with the exception of the Agent: on his destruction both parties seem determined.

After thanking Gen. McDonald for the preparation he had made to take the field pursuant to orders from Major-General Wimberly, the Governor thus responds the next day:—

I hope that no harm has befallen him, (the Agent;) and, if not, you may assure him that any force which may be necessary to reduce to order and obedience any militant tribes of the Creeks within our limits shall be furnished promptly, under the command of a trusty officer, who will be charged with full powers to act efficiently, under any exigencies which may arise.

Col. John Crowell, the Agent, once a Representative in Congress from the Alabama Territory, has been dead many years; and it would be uncharitable to his memory to assert that he wilfully directed or contrived the murder of McIntosh. He was a man of strong passions, and wielded great influence over the Indians. An old Indian who was present at the killing of McIntosh then stated to Mr. Francis Flournoy, a traveller and lodger in the house of McIntosh when it was attacked, that the Agent

Told the council that the only way to get their land back was to kill all that had any hand in selling it, and burn and destroy all they had which they could not carry away, and after that other chiefs never would attempt to sell their land, for fear of being treated in the same way,—and, when they had completed the above as ordered by the council, they would send word to the President that they had saved their land and had taken it back, and now he and the white people should never have it again.

The above is part of a statement sworn to by Mr. Flournoy on

the 16th day of May, 1825, before H. Allen, a justice of the Inferior Court of Baldwin county.

At May Term, 1825, of the United States Circuit Court for the district of Georgia, held at Milledgeville, the Grand Jury in their presentments say:—

The Grand Jury deem it necessary to the character of the Government of their country that the authors, perpetrators, aiders, and abettors of the crimes lately committed (the murder of McIntosh and others) should be sought for, and, when ascertained, prosecuted and severely punished. They have no language strong enough to mark their abhorrence of the white persons, if any, who have seduced or irritated the unhappy Indians to perpetrate this tragedy. They recommend the severest scrutiny into the conduct of all white persons in the Nation, and the judicial prosecution of each and every one of them against whom sufficient evidence to justify it shall be discovered.

These extracts close the narrative until it shall be resumed incidentally in noting the acts of the commission of which Mr. Torrance was a member.

Gov. Troup convened the Legislature in special session on the 23d of May, 1825. After calling their attention to the treaty, and the disposal of the lands acquired under it, with a searching review of the occurrences referred to in this memoir, Gov. Troup concluded his message by alluding to the resolutions of the Hon. Rufus King in the United States Senate, and the doctrines imputed to the Attorney-General adverse to the rights of the South respecting domestic slavery. As this portion of the message has a national renown, and drew from Mr. Jefferson the application of the epithet "hot-headed Georgian" to Gov. Troup, it is here given:—

If this matter (slavery) be an evil, it is our own; if it be a sin, we can implore the forgiveness of it: to remove it, we ask not even their sympathy or assistance. It may be our physical weakness; it is our moral strength. If, like the Greeks and Romans, the moment we cease to be masters we are slaves, we thenceforth minister—like the modern Italians—to the luxury and pleasures of our masters. Poets, painters, musicians, and sculptors we may be: the moral qualities, however, which would make us fair partakers of the grandeur of a great empire would be gone. We would stand, stripped and desolate, under a fervid sun and upon a generous soil, a mockery to ourselves, and the very contrast of what, with a little firmness and foresight, we might have been. I entreat you therefore most earnestly, now that it is not too late, to step forth, and, having exhausted the argument, to stand by your arms.

The correspondence between Gov. Troup and the Secretary of War relative to the conduct of Maj. Gen. Gaines, Col. T. P. Andrews, Special Agent, and other functionaries of the General Government, covers too large a space and involves too great a variety of facts to

be analyzed here.* This celebrated controversy was the first practical assertion of State sovereignty in this Union. Other States had announced the theory; but it was reserved for Georgia, under the lead of her enlightened and fearless Chief-Magistrate, to practise it triumphantly. The Creek lands were surveyed, in defiance of the President and his major-general. Some idea may be formed of the excitement of that period by a few extracts from public documents.

For causes deemed amply sufficient, Gov. Troup had suspended all official intercourse with Col. Andrews and Gen. Gaines. In his letter to the President, dated August 7, 1825, the Governor says:—

Gen. Gaines is reported to me to have said, in the presence of one of the Commissioners on the part of the State, that, if twenty-three States out of the twenty-four were to pronounce the Agent guilty, he would not believe them.

Gen. Gaines has been guilty of the childish indiscretion of threatening to cut off the head or ears of citizens of Georgia who happened to offend him, as if you had given him his sword for that special service. But indeed, sir, it is high time to dismiss the subject of this officer.

In maintaining correspondence with the Government of the United States, I have not permitted any false considerations of dignity, or any false estimates of forms and ceremonies which usually govern diplomatic intercourse between States, to interpose the least difficulty. So far from it, I have cheerfully descended to the level of every thing it pleased you at any time to employ as your representative or organ,—from the clerks of your Bureaus up to your major-generals by brevet,—and have acted and treated them as equals.

In the deportment of some of these I have experienced arrogance, self-sufficiency, a haughty and contemptuous carriage, and a most insulting interference with our local politics,—and these characteristics not exhibited to one, but to all the constituted authorities of the State. Now, sir, suffer me in conclusion to ask if these things have been done in virtue of your instructions, express or implied, or by the authority of any warrant from you whatever,—and, if not so done, whether you will sanction or adopt them as your own, and thus hold yourself responsible to the Government of Georgia.

A brief notice of the labors of the commission will suffice. Messrs. Warren Jourdan, William W. Williamson, Seaborn Jones, and William H. Torrance proceeded to its fulfilment with energy and despatch. Michael J. Kenan, Esq., was appointed Secretary to the Commissioners, and rendered efficient aid by his skill and promptness. Col. John S. Thomas and Capt. Bowen were the acting marshals to execute the orders and process of the Commissioners. A large mass of evidence was collected by the examina-

* But see the memoir of Col. D. G. Campbell, vol. i. chap. 5.

tion of witnesses in various parts of the Creek Nation and elsewhere. Many official notes passed between the Commissioners and Col. Andrews, Gen. Gaines, and the Agent, in the course of the investigation. The Agent was represented by his counsel, Col. Samuel Rockwell, who usually met the Commissioners on notice that testimony was to be taken. The missionaries were called forth as witnesses. Some of the Indian chiefs were examined in council, and every proper source applied to for information as to the guilt or innocence of the Agent. The facts thus collected were laid before the Governor in two reports from the Commissioners, one dated July 16 and the other August 23, 1825, the whole forming about one hundred printed pages. Curious and exciting disclosures were made, implicating the Agent and other appointees of the General Government in a conspiracy to thwart the interests of Georgia.

The toils of the commission were fully shared by Mr. Torrance. He and Col. Jones were ripe lawyers, and knew well the points necessary to be established. They and their colleagues acted in all fairness to the adverse party. Truth was their object, and they pursued it with zeal and industry.

For devoting so much space to the treaty and the matters growing out of it, the author makes this explanation:—It was admitted to be an extraordinary contest; and, as such, the particulars ought to be collected for the young men who are to succeed the actors in that struggle between State sovereignty on the one hand and the powers claimed for the Federal Government on the other. Mr. Torrance was a warm personal and political friend of Gov. Troup, and took an active part in defence of his administration through the press and other channels. These events deserve to become historical, and to this end the author has introduced them here as appropriate.

After being routed in his diplomatic functions, and his glaring improprieties exposed by the Governor, Col. Andrews published a vindication of himself in the *National Journal* at Washington City, under date of September 9, 1825, in which he indulges very rude personalities toward the Georgia Commissioners, as evidenced by the following passage:—

Col. W. H. Torrance. This gentleman has been convicted within about a year, by a sentence of the court of the place in which he resides, (Milledgeville,) of a disgraceful slander, and a considerable fine imposed by the sentence of the court as a punishment.

This reflection on Mr. Torrance having gone to the country

through the news-press in every quarter at the time, justice requires a statement of the facts. The author never saw the article which was deemed libellous by a jury, and is therefore unable to give its substance,—which, in connection with the canvass between Gov. Troup and General John Clark, would prove, as he has been informed, no “disgraceful slander.” It was a review of Gen. Clark’s pretensions as a public man, in which particular acts of his life, especially his overbearing temper and the outrages it led to, (chastising judges, and the like,) were severely animadverted upon. It was for this offence—a newspaper communication—that Mr. Torrance was indicted in the county of Baldwin, where General Clark resided, and the whole of his great influence was brought to bear on the trial in the form of an appeal to save him from dishonor. The result was that the gentleman accused had to pay a fine of one hundred dollars; and thus terminated the affair. No one ever thought less of Mr. Torrance, with a knowledge of the circumstances.

In this address of Col. Andrews a full share of vituperation is lavished on Captains Bowen and Thomas, the marshals to the Georgia commission. No person attached to it was worthy of respect, in the estimation of the President’s envoy, except Mr. Kenan. Not for any value to which the opinion of Col. Andrews is entitled respecting the officers or citizens of Georgia, but merely as an act of justice, a different passage is quoted from his pen :—

Mr. Kenan, the Secretary of the Board of Commissioners, so far as I observed or learned any thing of his character or conduct, is a young gentleman of capacity and merit, who, at the same time that he discharged his duty to the Board and to the State of Georgia, conducted himself as a gentleman toward all those who had occasion to have any intercourse with him.

About this time the professional engagements of Mr. Torrance rapidly multiplied. He was retained in nearly all the litigated cases in the courts which he was in the habit of attending,—several in the Ocmulgee, Flint, and Southern circuits respectively. At the session of the Legislature in 1827, he was employed by Col. Joseph Blackshear, of Laurens, to exhibit charges, in the form of a memorial, against the Hon. Moses Fort, Judge of the Superior Courts of the Southern circuit, for misconduct on the bench and for habitual intemperance. The complaint was referred to a select committee, of which the Hon. Charles Dougherty was chairman, in the House of Representatives, before whom witnesses were examined touching the allegations. Mr. Torrance appeared as

counsel for the prosecution in committee; and, after the report was made adverse to the judge, he was also heard at the bar of the House in support of the charges. The late Gen. Robert A. Beall and Col. Samuel Rockwell were counsel for the accused. The address to the Governor for the removal of the judge was carried by a majority of two-thirds in the House, but failed for the want of a constitutional majority (two-thirds) in the Senate.

To show the kindness of heart and the liberality evinced by Mr. Torrance toward junior members of the bar, the author submits a letter, which, as containing a list of books proper for a new library, may be of service to some of his young friends:—

MILLEDGEVILLE, 16th June, 1829.

DEAR SIR:—Your kind letter of the 12th inst. came to hand this morning. I hold my information, or such as I may be able to give at any time, as public property for my juniors in the profession; and so I deem it should be with the more aged and experienced: but how sadly I have witnessed to the contrary! Some I do know who strive to keep the newly-initiated in the gloom of ignorance,—as though the science did not comprehend more than they all could master.

Annexed I give you a list of such books as are of the most practical importance. It contains about one hundred and four volumes. They should be purchased—if at the same time and place—for about four hundred dollars. Should you send the cash to Philadelphia or New York, intrusted to a judicious purchaser, they can be bought for less. In Savannah you would be charged more.

I have given you such of the English Common-Law Reports as are considered best in Westminster, Paris, Weimar, and Washington. Saunders is of high value. Burrows, Cowper, Douglass, and the opening of term reports (alias Durnford and East) contain the judgments and opinions of that greatest of all great lawyers, Mr. Murray, Lord Mansfield. For about thirty-two years he presided as Chief-Justice, sworn into office 8th November, 1756, resigned June, 1788, succeeded by Lloyd, Lord Kenyon, 9th June, 1788. Lord Mansfield preferred Buller. Buller was from the plebeian ranks. Lloyd was then Master of the Rolls, and from patrician loins. Nevertheless, he made a great judge. From '88 to 1802 Lord Kenyon presided as Chief-Justice. In 1802, at the Easter Term, he was succeeded by a greater man, his majesty's attorney-general, Sir Edward Law, (brother of a celebrated lawyer of that name formerly of Washington City.) On the 12th April, 1802, Sir Edward was sworn into office and took his seat on the bench. The motto on his ring was "*Positis mites curet secula bellis*." That term the attorney-general (Law) was succeeded by that learned but despotic man, Spencer Percival, who was afterwards assassinated on his *debouch* from the House of Commons. Sir Edward Law was granted the title of Lord Ellenborough. He continued until Michaelmas Term, 1818, and was succeeded by Sir Charles Abbott, who was not equal to his predecessor. He did not remain long.

If you can add Vesey, Junior, (20 vols., Chancery,) and Johnson's Chancery Cases, 7 vols., do so.

Your friend,

WILLIAM H. TORRANCE.

land in Middlesex (England) to which he had no title, the title then being in the crown. An act of Parliament was, *subsequent* to the act of sale, passed, by which he procured the title; and even a court of equity held the vendee bound. The authorities are abundant. Yours,

WILLIAM H. TORRANCE.

Another letter written to the author is subjoined, which shows the humor and learning indulged at particular seasons hereafter referred to:—

MILLEDGEVILLE, February 9, 1830.

MY DEAR SIR:—By-the-by, writing the name of this month according to common parlance reminds me that it is so called from the Februa, supposed by some to be the same person as Juno; and the evident relation between the Februa Juno and the Purificato Virgo Maria is one among the most striking instances of the connection between Pagan and Christian rites. Ovid says,—

Februa Romani dixere priamini patres
Nunc quoque," &c. &c.

The Primula Verna buds now.

You may remember the history of the Scotchman Dugald McNevin, who wrote, on this morning one hundred and sixty years ago,—

"By murmuring Neth, my native stream,
I've hail'd thee with the *morning* beam," &c.

Sir Tom Brown, on Candlemas-day a century since, prophesied this late cold weather, for he wrote a short distich:—

"Si sol splendet Maria purificante,
Major erit glacies post festum quam fuit ante."

I am reminded by the time that the period is at hand for nature to begin to prepare for her revivification. The Lord, as the Psalmist expresses it, now renews the face of the earth. Animate and inanimate nature seem to vie with each other in opening the way to spring. At this season in the Indies the wood-lark is heard: he is a sweet songster. Rooks begin to pair in England; the thrush is seen gambolling on the boughs; the house pigeons have young; field-cricketts open their holes; at the stillness of three in the morning the hoot of the gray-eyed owl is heard. The Lupercalia is at hand; and who is to write such another philippic as Cicero did *vs.* Anthony, *alias* Antony, for running about with his clothes disordered,—*Solin*, or approximate, you know, as described by those ignoble bipeds inhabiting the banks of the Po and the Tiber a few ten hundred years ago, sufficiently denoted what we have seen to have prepared for it in time.

The memorable account of the spectre which haunted the late Lord Littleton, which foretold the hour of his death,—the story of Mrs. Veal, and the warning voice to Quarrens,—might have served me as a beacon. The remarkable phenomenon called second sight and fetches is of no *earthly* use to the decedent. Alas! he knew it too late.

My dear sir, all these matters bring forcibly to my recollection the loss of my papers. The original draft marked with blood-ink, and the manifest

of the good ship the Emperor, outward bound from Sandy Hook to Cockspar Inlet, on board of which was the barouche,* are gone, I fear, irretrievably.

That was an unfortunate ship; and it seems that so is all that in any wise touched or concerned the same. My draft, shipping-list, lost; therefore my evidence gone,—not for a *term* in law, but for *all time*. The ship, captain, and crew have met Gloster's fate: they have gone below, amidst a thousand fearful wrecks, with millions of men that fishes have gnawed upon, midst wedges of gold, great anchors, and heaps of pearl, all scattered in the bottom of the sea. Why had not the Government better establish a mint there than in Cabarras county, N.C.? If so, then I could obtain depositions furnishing me with evidence of my draft and shipping-document. Otherwise, the case is *hors de combat*. If the papers are to be found, do spare no pains to get them.

Saffold† is appointed judge. Who would not prefer his friend to his adversary? Yea, if he was Solomon.

Your friend,
WILLIAM H. TORRANCE.

It seemed to afford him relief to write, talk, and act with extravagant buoyancy at certain times. After severe preparation in a cause, or other drain on his faculties, he would recover his elasticity by some innocent and diverting freak. On the circuit, he has been known to assemble the members of the bar in his room, and recite, with tragic solemnity, some wild poem or tale of superstition. At a late hour of the night he would light up the courthouse, appoint a mock sheriff and clerk, and have loud proclamation made that "The Honorable Court of Madagascar, with universal jurisdiction, now sits. Silence is enjoined to the ends of the earth. Persons injured in body or estate may obtain speedy redress in this court."

He would then order the members of the bar to be called; and, if they failed to appear, his sheriff was commanded to bring them into court. Often have their slumbers been interrupted by the officer of the "Madagascar" judge, who would take no excuse. He usually presided in state, with a rich Mexican robe, that cost fifty dollars, over his shoulders. With native dignity becoming the ermine, he would sound a case from the docket:—"Republic of the Moon *vs.* Job Nicodemus Pilgarlic, for stealing thunder. Is the defendant ready for trial? He must be ready, as no continuances are granted in this court. Select the jury: the jury is always selected. Mr. witness, if you tell the truth you will be instantly sent to prison for contempt of court. What do you know? That is enough: stand aside. Gentlemen of the jury, you have

* Ordered by the late Dr. A. B. Ridley, through Messrs. Stiles & Fannin, of Savannah.

† In place of the Hon. Thomas W. Cobb, deceased.

heard the indictment and the proof,—that is, you can imagine both: now retire, and exercise your discretion. This court never interferes; but, if you acquit the prisoner, each of you shall be hanged immediately. Gentlemen of the bar, if you desire reputation in this court, roar like lions and sing Yankee Doodle. The court will pitch the tune. Mr. Sheriff, break the stillness of midnight by informing mankind, at the top of your lungs, that this honorable court is adjourned to the Cape of Good Hope and will sit in Madagascar. Come, fellows, behave. Do not disturb this quiet and peaceful village nor the sleep of the children. Let us go home like good citizens, and retire early to rest.”

The whole of this exhibition was grave and decorous. Mr. Torrance, arrayed in his ample Mexican robe, his tall and graceful figure commanding attention, his clear and authoritative voice conveying the idea of power, made an impression far more respectful than that usually felt in *other* courts. He would have made a splendid judge. His learning in the law was profound; but he was too modest even to seek office. The Legislature of Georgia has never been in the habit of conferring judicial trusts without the knowledge and solicitation of the recipient. Only one instance to the contrary is remembered,—that of the Hon. Charles J. McDonald, who at the session of 1855–56 was elected Judge of the Supreme Court; and it required great persuasion afterward to induce him to accept the office,—a circumstance which is alike honorable to both parties.

As an advocate, Mr. Torrance was calm and self-possessed. His arguments flowed easily, on a solid basis of reasoning. He indulged in no rant or vapid declamation. Occasionally a flourish of rhetoric or a sparkling gem of poetry would appear with happy effect in his speeches to the jury. His enunciation was distinct and very deliberate. Every word had the right sound and the right meaning. He was familiar with technical phrases and with the forms of King's Bench, with which he would frequently illustrate some principle of law,—some obsolete proceeding, not usually recognised, yet throwing light by its origin. He would refer, without notes, to cases in the oldest reports, and state the questions involved, giving the principal facts, with the names of counsel and the judges who delivered the opinion. His very intellect, as he poured forth his treasures of ancient law, seemed to revel with the spirits of Coke, Bacon, Finch, Hale, and other venerable masters of the law. The quaint phrases of that school dropped gracefully from his lips. He felt its inspiration; and the

energies of his mind were stirred by its strength and simplicity. Often would he pursue the strain to give force to his own thoughts.

Mr. Torrance had been suspected of vanity in thus displaying his knowledge of the dusty oracles of the law; but the reproach was unmerited. It was impossible for him to talk on legal subjects without incidentally tracing certain maxims and principles to their source,—to the very occasions and facts in history which called them forth. His mind had dwelt so long and so intensely on this era of jurisprudence, with the vigor and brevity of its logic, that it was fully imbued with its images. The whole feudal system was a landscape, in which he recognised every castle, landlord, and tenant. Where and how he acquired this vast store of information, especially as his early schooling was defective, it is difficult to explain. The only solution is that he was patient and laborious in his studies, and that nature had given him a robust constitution to bear up under the exhausting process. Suffice it to say, he possessed a treasure which never fell within the grasp of indolence or stupidity.

Such was William H. Torrance during the last ten years of his life, among the leaders of his profession. He had the additional merit of being kind and generous in his dealings with the world, and was particularly fond of helping young men forward at the bar. He would not only advise, but assist in their cases, if necessary. His law-office was usually filled with students, from whom he never accepted any compensation whatever. Many lawyers now gathering wealth and fame are indebted to his friendly aid for success. His person was of the noblest model, six feet high, well proportioned, and his address very engaging. The sympathies of his nature forbade cruelty to any human being. At no period of his life was he in the least avaricious. True, he made large sums of money by his practice, and it required large sums to support his style of living. His hospitality was without stint. In dress he was all neatness and elegance. Never was he seen outside of his mansion carelessly attired. Every garment was of the best material, fashionably made, and always in perfect order. On the circuit his horse, sulky, (no buggies in his day,) and travelling-equipage were the very finest to be had. He carried with him a portable mahogany desk, in which his business-papers were arranged in a method refreshing to behold. His pens, ink, and writing-paper were all of superior quality. The first metallic pen the author ever saw was in the possession of Mr. Torrance in 1833. These details may appear trivial to many; yet they express character.

Mr. Torrance died at his residence in the vicinity of Milledgeville, May 23, 1837. A communication in the *Southern Recorder* of the 30th of the same month announced his death, as follows:—

Departed this life, on Tuesday, 23d instant, at his residence near this place, WILLIAM HOWARD TORRANCE, Attorney and Counsellor-at-Law, in the 45th year of his age.

Mr. Torrance was born and brought up in Union district, in the State of South Carolina, but removed with his father to this neighborhood in February, 1811. In 1812, upon hearing of the declaration of war against Great Britain, he was one of the first to volunteer to go with Col. Newnan to Florida, but was prevented from doing so by the death of his father the day on which the troops marched.

In 1813, he again volunteered for the Creek War, and served a part of the time as secretary to Gen. Floyd. He was at the battle of Calebbee Swamp, and was considered by his comrades in arms among the bravest of the brave. In October, 1814, he again volunteered as a private soldier for the defence of Savannah. Soon after his arrival there, he received an appointment in the brigade-staff, the duties of which he performed to the entire satisfaction of Gen. Floyd until the close of the war.

Soon after the war, he went to Augusta, where he served as a clerk until the fall of 1817, when his employers (Messrs. Stewart & Hargrave) enabled him to go into business in connection with the present Judge Wilde. Their losses by the failure of a large manufacturing-company, in the disastrous year 1819, compelled them to abandon mercantile pursuits and resort to a profession, as affording more certain means of support. In 1819, Mr. Torrance commenced the study of the law under Col. Seaborn Jones, and the following year completed his studies under Richard H. Wilde, and settled in this county, where he has ever since resided.

Mr. Torrance was not one of those who burst on the community like a meteor and soon become extinct. His rise was gradual; but he was continually gaining, and at his death left but few better lawyers in the State. He never was considered eloquent; yet his speeches were replete with good sense, and always showed a perfect knowledge of the law, and none had more completely the confidence of the court and jury in every circuit in which he practised; nor was he ever known to stoop to the quibbling and pitiful shifts which too often disgrace an honorable profession. As a politician he was warm and decided, but at the same time an open and manly opponent. In private life none stood higher. His religion was found in his life. He was one of those who believe that they are the best Christians who do most to promote the happiness of the human race; and few lived nigher up to the rule, "Do unto others as you would have others do unto you." Those who knew him best will mourn him most; and none knew him better than the writer of these lines.

At the time he commenced reading law, a friend of his, who had taken the first honors at college and studied law at one of our best Northern law-schools, advised him to abandon the attempt, and told him it was out of the question for a man of his age, (twenty-eight,) with a defective education, ever to make a lawyer. Mr. Torrance told him that perseverance would overcome great obstacles, and that he felt confident he would succeed better than he would, and for an obvious reason:—he had a competency without study; not so with himself: he had to *study* or *starve*. His friend got tired of the law, and turned planter; Torrance died at the head of his profession.

XXXI.

GEORGE W. TOWNS.

It has been the good fortune of Georgia to have in her service at various times men of a high grade of talents and qualifications who have represented her in the Cabinet, in missions to the principal courts of Europe, in both Houses of Congress, and in the State Executive, with the greatest efficiency. Connected with the latter office a short time before his death, during a period of intense party excitement, the name of GEORGE W. TOWNS is most familiar to the public. It will be the object of this memoir to present his political career, his qualities as an individual and as a legal advocate.

He was born in Wilkes county, Georgia, on the 4th day of May, 1801. The family was from Virginia. His father was a soldier of the Revolution, and was at the battle of Cowpens and Eutaw, in both of which he acted a part most honorable to his memory. GEORGE W. TOWNS was denied the advantages of a finished education, his father not being able to send him to college; yet he betrayed a fondness for learning while at work on the farm, and devoted all his leisure, by day and by night, to the perusal of the books which his own industry enabled him to purchase. By the time he was grown, he had a good foundation in science and in literature. On attaining his majority, or before, he left home to seek his fortunes in another State,—a practice so common and, it may be added, necessary to youth who are not better provided in the way of fortune. That he commenced merchandizing in Alabama and ended in failure is very probable. Men of his mould are rarely good merchants. Their impulses are in the way; their ideas are too impatient to watch the slow operations of trade. They desire something brilliant, sudden,—a name, an influence which cannot be achieved in that field.

In regard to this whole matter, trade or other business, fortunate or adverse, the author states nothing positively, as he has failed to obtain the necessary information. Passing over his first attempts to set himself up in the world, we follow him into a law-office, where he becomes a student,—under whose direction, whether

in Montgomery, Cahawba, Salma, or any other inland town of Alabama, is not known to the author. At all events, he obtained license to practise in that State about 1824, he then being in his twenty-third year. From what the author heard, incidentally, Mr. Towns was for a while connected with the press in Montgomery. He thinks it quite probable that the two years from his admission until he returned to Georgia and settled in Talboton in 1826 were employed in editing some public journal, thus giving his mind that turn for political discussion in which he afterward excelled. This, however, is mostly conjectural, aided by impressions from some quarter. The author has applied to several gentlemen who were intimate with Gov. Towns for facts in his early life to be used in this memoir; but only one* of them has furnished him a line on the subject, he referring to others, and substituting a small scrap from a newspaper announcing the death of Governor Towns in the place of any statement of his own, which the author had reason to believe could be made full and satisfactory.

Col. Towns had not long resided in Talbot county before he was elected a Representative in the Legislature. The author has before him a copy of the House Journal for 1829, in which his name appears. From a hasty glance it is not perceived that he introduced any bills or took an active part in the *journalized* proceedings of that body. He may have introduced himself in debate, which he probably did; but of course the record is silent as to oral discussions. A file of Milledgeville papers of that day might give more information on the subject. It is not important to his fame, however, to show that he at once established a high character in debate. Remarks on this head will be reserved for another stage of this memoir.

He was re-elected to the House in 1830, and was appointed by Mr. Speaker Hull a member of the Committee on the Judiciary, which consisted of the following gentlemen:—

Messrs. Haynes, Howard of Baldwin, Schley, McDonald, Holt, Gresham, TOWNS, Bailey, Hatcher, Greene, King, Jackson, Tuggle, Terrell, and Holland.

A few passages from the Journal for 1830 will be quoted:—

P. 46. On motion of Mr. Towns,—

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of altering and amending the several laws now in force in this State, so far as regards the jurisdiction of the Inferior Court and the number of justices constituting the same, with leave to report by bill or otherwise.

* Levi B. Smith, Esq., for several years a law-partner of Gov. Towns.

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of altering and amending the 29th section of an act entitled an act to revise and amend the Judiciary system of this State, passed February 16th, 1799, so far as regards the place where the right of property shall be tried when levied on in the possession of parties other than defendants in execution, with leave to report thereon by bill or otherwise.

P. 165. Mr. Towns, from the Committee on the Judiciary, reported a bill to alter and amend the first section of an act entitled an act to alter and amend so much of the thirty-second section of the Judiciary, passed on the 16th February, 1799, as respects the claim of property in the Superior and Inferior Courts of this State, so far as regards the courts wherein claims shall be tried,—which was read the first time.

P. 353. The House took up the preamble and resolutions from Senate, upon the subject of the Tariff, Internal Improvement, and the re-election of Gen. Andrew Jackson, President of the United States.

Mr. Towns then moved the following preamble and resolutions in lieu of the preamble and resolutions from Senate, and of those offered by Mr. Beall of Twiggs:—

Whereas, the political crisis in our State as well as national affairs has arrived, when a determinate and unreserved expression of the sentiments of the people may correct erroneous impressions in our State;

And whereas, the recent events in an adjoining State, and the expression of opinions in our own, bespeak unfavorable indications to the continuance of the peace, tranquillity, and happiness of our beloved country, which manifestations of feeling are too particularly notorious to be susceptible of misconstruction. In such impolitic as well as dangerous displays of political excitement every good citizen is bound, by those inestimable, patriotic ties of feeling, to rally around our Federal Government, which has heretofore reflected such lustre over our political, moral, and civil associations as to elicit the admiration of the world;

And whereas, at this momentous period the people of Georgia, by their Representatives now assembled, unhesitatingly avow a firm adherence to the principles expressed in the following resolutions:—

1. *Be it Resolved, by the Senate and House of Representatives of the State of Georgia in General Assembly met, and it is hereby solemnly resolved by the same*, That the present Federal Constitution is the bond of union between these United States. With a view, therefore, to avoid all cause of dissension and complaint, it is essential that the Federal Government in the exercise of its powers should, without deviation, adhere to a correct, literal construction of that instrument, and carefully avoid the usurpation of any right not expressly surrendered.

2. *Resolved*, That though the Congress of the United States may legitimately raise revenue for the support of Government, yet in so doing a just and prudent discretion ought to be exercised, constantly keeping in view a fair and just equalization of the burdens imposed among the several States.

Yet this principle has been greatly disregarded, and experience proves it in the existing Tariff of 1828. That law, manifestly [*unconstitutional and*] unjust in its conception, has also been partial in its operation, and still continues its baneful pressure on the most vital interest of the South, while the people of this State, with their accustomed patriotism, have yielded obedience to it; but they now urge in the most emphatic terms its modification and better adaptation to the interest of the whole.

3. *Resolved*, That Georgia, in common with the Southern States, is fully convinced of the importance of an early and successful extinguishment of the national debt, as then the demand for revenue should only be proportionate to the immediate wants of the Government.

4. *Resolved*, That as there are conflicting opinions, as well as an avowed hostility of the people, against the assumption by Congress to apply the national resources to the purposes miscalled "Internal Improvement," therefore this Legislature cannot forbear expressing their positive disapprobation of any such appropriations until the Constitution of the United States is so amended as expressly to surrender the guaranty of the power now claimed.

5. *Resolved*, That the people of Georgia contemplate with deep and ardent regret the frequent and open expressions of opinions unfriendly to the perpetuation of our present happy Union; they nevertheless cannot now refrain from declaring it as their firm and solemn belief that the preservation of the present General Government, as based on the Federal Constitution, is the rock on which our future safety depends, and that on the annihilation of political sentiments, other than those patriotically friendly to the continuance of this Government, not only depends the present, but future, existence and happiness of the people of these United States. That a wise and prudent discrimination between feelings tending in their consequences to union or disunion cannot be too closely cherished and appreciated as the sole hope and safety of this Republic. That disunion, it is firmly believed, will bring in its train discord, misery, and civil war; and, finally, that the people of this State deem those as their worst and bitterest enemies who seek to sow the seeds of disunion and introduce the wretched doctrines of Consolidation and Nullification among them.

6. *Resolved*, That the people of Georgia, by their Representatives now in session, view with deep and interesting solicitude the re-election of Andrew Jackson to the Presidency of the United States, avowing an open and frank devotedness of feeling to his construction of the Federal Constitution as regards internal improvement, and of his administration generally.

Mr. Dougherty then moved that Mr. Towns's preamble and resolutions lay on the table for the present.

On which motion the yeas and nays were required to be recorded, and are,—Yeas, 86; Nays, 42.

The words in brackets in the second paragraph or *argumentative* clause of the second resolution were inserted on motion of Mr. Beall of Twiggs,* by a vote of 100 to 26, before the resolutions were laid on the table.

The next record-glimpse that we have of Col. Towns is in the Senate of Georgia. The following extracts are given from the Journal of 1832:—

P. 41. *Committee on the State of the Republic*.—Messrs. Harlow, Chappell, Nisbet, Towns, Wood of McIntosh, Wofford, Burch, Hines, Baxter, R. C. Shorter, King, Lucas, Cleveland.

* See Memoir of R. A. Beall, vol. i. p. 31.

P. 49. Mr. Towns notified the Senate that, after to-day, he will move the appointment of a committee to prepare and report a bill to relieve all persons from the provisions of an act passed 19th December, 1828, entitled an act to alter and amend the additional oath required by law to be taken by all officers, civil and military, to prevent the offence of duelling.

P. 123. Mr. Towns notified the Senate that, after to-day, he will move the appointment of a committee to prepare and report a bill to reduce the present number of justices of the Inferior Court, to define more properly the jurisdiction of said court, and for other purposes.

Notice having been taken elsewhere* in this work of the Anti-Tariff Convention held at Milledgeville in November, 1832, it is deemed proper that the action of the Legislature upon the plan submitted by the convention should also appear. It may be well to remark that both branches had a majority of Union men as contradistinguished from Nullifiers. The House had passed resolutions proposing to submit "Southern Convention," or "No Southern Convention," to the people of the several counties of Georgia on the first Monday in January, 1833, the returns to be certified to the Governor as in cases of election. The "Plan of a Southern Convention" adopted by the House and sent to the Senate contained seven articles to the effect,—

1. That Georgia invites Virginia, North Carolina, South Carolina, Alabama, Tennessee, and Mississippi to meet in convention on the tariff and devise relief from the evils of that system.

2. Each State to send delegates equal to its representation in both Houses of Congress.

3. Convention not to be held unless five of the six States assent to the proposal.

4. Time and place of assembling the convention to be agreed on by correspondence.

5. Governor of Georgia to communicate proposals to the other States mentioned, to be made known to the people.

6. Governor to announce time and place of convention, and order an election for eleven delegates by general ticket to the Southern Convention.

7. If the Southern Convention shall agree upon a course of proceeding, and recommend the same, then the Governor of Georgia to issue his proclamation to elect delegates to a State Convention; and, if the proceedings of the Southern Convention be approved, the same shall be referred to the people for their final ratification.

* See Memoir of Hon. J. M. Berrien, vol. i. p. 37.

The following resolutions of the House accompanied the plan of which the foregoing is an abstract:—

P. 192. *Resolved*, That if the above plan of a Southern Convention is adopted by the votes of a majority of the citizens of this State, given in the manner therein described, it will be the right and duty of the different functionaries of the State Government to afford all necessary aid in facilitating its execution.

Resolved, That we earnestly advise our fellow-citizens not to give their votes on the resolutions of the convention recently adjourned, as therein proposed. That convention manifestly consisted of delegates from a minority of the people; yet they submit their acts for ratification to the whole people, according to a form contrived by themselves, through the agency of persons appointed by themselves, while they themselves remain final judges of the ratification proposed. To sanction such a procedure would open a door for the grossest imposition, would establish an alarming precedent for usurping the rights of the majority, and might ultimately expose us to all the horrors of discord and anarchy.

Resolved, That while we would provide a corrective for the possible continuance of those evils of which we have so much reason to complain, we still hope that the regular operations of the General Government will supersede the necessity of any extraordinary measures on the part of the Southern people; and that we recognise the happiest augury of better things in the growing certainty of the re-election of that illustrious patriot, Andrew Jackson.

Resolved, That we abhor the doctrine of nullification, as neither a peaceful nor a constitutional remedy, but, on the contrary, as tending to civil commotion and disunion; and, while we deplore the rash and revolutionary measures recently adopted by a convention of the people of South Carolina, we deem it a permanent duty to warn our fellow-citizens against the danger of adopting her mischievous policy.

After which Mr. Chappell proposed therefor the following as a substitute:—

Whereas, a great and dangerous contest has long agitated our country in relation to the constitutionality and expediency of the protection extended by Congress to certain domestic productions and manufactures, by the imposition of heavy duties on articles of like kind imported from foreign countries;

And whereas, the people of Georgia are deeply impressed with the conviction that duties imposed for the purpose of such protection are unwarranted by the Constitution and at war with the prosperity of the Southern States;

And whereas, the hostility of feelings and interests which this policy of protection has already engendered between the great geographical divisions of the country threatens danger to the Union itself, and has produced a crisis in which we behold a sovereign member of the Confederacy deliberately and decisively arraying herself in perilous conflict against the common Government of all the States;

And whereas, also, the urgency and magnitude of the dangers attendant on the existing state of things requires a prompt recourse to the speediest mode provided by the Constitution by which this unhappy controversy can be safely and permanently adjusted:—

Be it therefore Resolved, as the sense of the Senate and House of Representatives of the State of Georgia in General Assembly met, That the Congress of the United States ought at its present session to propose to the States an amendment of the Constitution, having for its object the lasting settlement of the dangerous controversy between the different sections of the Union which has grown out of the Protective Tariff policy pursued by the Federal Government, and also having for its further object the express protection of the people of the United States against the assumption by Congress of the power to pursue such a policy, or any policy rendering the burdens of taxation unequal on the different sections of the country.

And be it further Resolved, That his Excellency the Governor be requested to transmit a copy of this preamble and resolutions to each of the Senators and Representatives of this State in the Congress of the United States, and also to the Governors of the several States, for the purpose of being laid before their respective Legislatures.

Mr. Chappell's substitute was rejected, by a vote of 29 to 48, Mr. Towns voting in the negative.

P. 195. Mr. Harlow then proposed the following as a substitute for the last of the original resolutions of the House of Representatives :—

Resolved, That we nowhere find in the Constitution of the United States the authority given to this General Assembly to sit in judgment upon any act of a sister State in her sovereign capacity; that, although we deem the late action of South Carolina to be premature, we are still of opinion that we have no right, and it is highly impolitic for us, to offer to that State, united with us as she is in interest, the gratuitous indignity of our censure.

Mr. Harlow's substitute was also rejected,—29 to 48,—Mr. Towns voting in the negative.

The resolutions from the House of Representatives were then adopted,—Yeas, 49; Nays, 29,—Mr. Towns voting in the affirmative.

Although there seems to have been no controversy relative to the following proposition, it may answer for historical reference to insert it here :—

P. 236. The Senate took up the preamble and resolutions of the House of Representatives upon the subject of a Federal Convention, which were amended and agreed to unanimously, and are as follows :—

Forasmuch as throughout the United States there may exist many controversies growing out of the conflicting interests which have arisen among the people since the adoption of the Federal Constitution, out of the cases in which Congress claims the right to act under constructive or implied powers, out of the disposition shown by Congress too frequently to act under assumed powers, and out of the rights of jurisdiction either claimed or exercised by the Supreme Court, all of which tend directly to diminish the affection of the people for their own Government, to produce

discontent, to repress patriotism, to excite jealousies, to engender discord, and, finally, to bring about that event of all others most deeply to be deplored and most anxiously to be guarded against,—namely, a dissolution of our happy Union and a severance of these States into hostile communities, each regarding and acting toward the other with the bitterest enmity,—and the experience of the past having clearly proved that the Constitution of the United States needs amendment in the following particulars:—

That the principle involved in a tariff for the direct protection of domestic industry may be settled.

That a system of Federal taxation may be established which shall be equal in its operation upon the whole people and in all sections of the country.

Be it Resolved, by the Senate and House of Representatives of the State of Georgia in General Assembly met, and acting for the people thereof, That the State of Georgia, in conformity with the 5th article of the Federal Constitution, hereby makes application to the Congress of the United States for the call of a convention to amend the Constitution aforesaid in the particulars herein enumerated, and in such others as the people of the other States may deem needful of amendment.

Resolved, further, That his Excellency the Governor be and he is requested to transmit copies of this document to the other States of the Union and to our Senators and Representatives in Congress.

P. 257. The Senate took up the following report made by Mr. Harlow, Chairman, and laid on the table yesterday:—

The joint committee on the state of the Republic, to whom was referred the proceedings of the Convention of the people of South Carolina, have had the same under consideration, and beg leave to report,—

That a resolution having been agreed to by both branches of the General Assembly applying to the Congress of the United States for the call of a Federal Convention on the part of this State, in the hope that all matters of public difficulty and excitement which now agitate and distract our common country may thereby be peaceably and satisfactorily adjusted, it is inexpedient at this time further to legislate on these grave subjects.

Mr. Wood of McIntosh, from the same committee, made a long minority report, embracing military, commercial, and agricultural statistics, which he proposed as a substitute, and concluding as follows:—

Georgia cannot,—dare not,—by the consecrated obligation that she owes to her citizens and their God,—Georgia will not join Carolina in her perilous crusade against the union and the existence of this glorious and thrice-happy Republic. At this moment patriotism, councils, and wisdom admonish us to cool and deliberate action, and hope begins to gild our political horizon, bidding us to look for better times. In the recent message, the President expresses a decided opinion on this all-absorbing subject; and from it certainty almost rises to our vision “that the Tariff will be reviewed with a thorough knowledge of all its bearings upon the

great interests of the Republic, and that there will be a determination on it so that none can with justice complain." This opinion furnishes evidence that the system is not riveted on us; nor ought any to despair of the Republic while Andrew Jackson presides over its councils. The committee cannot refrain from directing the attention of the Legislature to that portentous body of combustible matter situated in the bosom of our sister State, and which, if conflicting parties once proceed to extremities, the seeds of a direful evil may be sown there that may hereafter bring forth most bitter fruit in our own State. Humanity shudders at even the mere possibility of such a catastrophe, and warns us to use every possible preventive. With that view, and to prevent all false calculations on the feelings and sentiments of the people of this State, your committee respectfully recommend the following resolutions:—

Resolved, That while Georgia is deeply impressed with the embarrassed situation of her sister State, for whom she feels the most lively attachments, yet she cannot approve of the course pursued by the late South Carolina Convention, nor can she give her sanction to measures which have inevitably a revolutionary tendency, and, if persisted in, must ultimately lead to the dissolution of the Union.

Resolved, That South Carolina be respectfully invited to review the ground she has taken, and thereby leave open a door to an honorable adjustment of her difficulties with the General Government, as there is now just grounds to believe, from the President's Message delivered to Congress, "that the tariff system will be so modified that none can with justice complain."

And, on the question to agree to said proposed substitute, Mr. Wood required the yeas and nays to be recorded thereupon, and are,—Yeas, 27; Nays, 38,—Mr. Towns voting in the negative.

It may seem that the author is making too free use of documentary matter for the purpose of this memoir. To this objection he replies that Col. Towns was a *politician* and identified with the questions of the day. His course, therefore, is necessary to be traced in order to do his character justice. One more extract from the Journal of the Senate will conclude the proceedings of 1832, so prolific of abstractions, and yet interesting to all who wish to consider the state of parties and the perils of that era:—

P. 282. Mr. Chappell submitted the following preamble and resolutions:—

Whereas, the great and cardinal principles which are essential to the security of the rights of the States of this Union against the encroachments of Federal power have been gainsaid and denied to an alarming extent by the President of the United States in his late proclamation;

And whereas, doctrines are contained in said proclamation which, if permitted to obtain a practical ascendant, must inevitably degrade the States, from that sphere of sovereignty in which they are constitutionally entitled to move, to a condition of provincial subjection to the authorities of the General Government;

And whereas, when the true and vital principles of the political system

of our country are disparaged and controverted by an elaborate manifesto issued from so high a source as that of the Chief-Executive of the Union, it is altogether fit and warrantable to invoke in support of those principles authority the highest and most revered which the history of our Government furnishes :

The General Assembly of the State of Georgia doth therefore declare, in the language of Thomas Jefferson, as adopted by the Legislature of Kentucky in 1798,—

That the several States composing the United States of America are not united on the principle of unlimited submission to their General Government; but that by compact, under the style and title of a Constitution of the United States, and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself the residuary mass of right to their own self-government, and that whensoever the General Government assumes undelegated powers its acts are unauthorized, void, and of no force; that to this compact each State acceded as a State and is an integral party,—its co-States forming as to itself the other party; that the Government created by this compact was not made the exclusive or final judge of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself as well of infractions as of the mode and measure of redress.

And this General Assembly doth further declare, in the language of James Madison, as adopted by the Legislature of Virginia in 1798,—

That it views the powers of the Federal Government as resulting from the compact to which the States are parties; as limited by the plain sense and intention of the instrument constituting that compact; as no further valid than they are authorized by the grants enumerated in that compact: and that, in case of a deliberate, palpable, and dangerous exercise of powers not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.

And this Assembly further declares that it dissents from all those views contained in the afore-mentioned proclamation, which proceed on the principle that the States have no right through their constitutional functionaries to resist encroachments by the Federal Government on their reserved rights.

On motion of Mr. Tennille, this *declaration* of principles was laid on the table for the remainder of the session,—Yeas, 39; Nays, 21, —Mr. Towns voting in the affirmative.

This vote of the Senate *ignored* the Virginia and Kentucky Resolutions, and stamped them as of no weight or efficacy in Georgia; and yet they have been referred to as good authority since, and even by the very Senators who voted them down,—for laying them on the table in this summary manner was equivalent to their rejection.

The author thinks it probable that Col. Towns continued in the

Senate until his election to Congress, in 1834. He was re-elected in 1836, and served in the House of Representatives until the 4th of March, 1839. It was from this period that he achieved his proudest victories at the bar as an advocate. His practice was not again interrupted by any public employment until 1845, when he was a third time returned to Congress, having as his competitor the late Dr. Ambrose Baber, who had been nominated by the Whigs to fill the vacancy caused by the resignation of the Hon. Washington Poe. This term completed a service of six years in the Councils of the Union. The author has none of the speeches made by Col. Towns while in Congress, from which to draw specimens of his ability in argument. Without knowing the fact, or pretending to exact information from any quarter in relation to the success or influence of Col. Towns in debate, the author ventures the opinion, with all respect, that he was not as powerful on the floor of the House as in a court-room addressing the jury. And it may be said without any disparagement, as the opinion is certainly expressed in all kindness, that he was not the equal of Wilde, Clayton, Foster, or Glasscock, who had just preceded him, in maturity of preparation, though he may have excelled them all in voice and manner,—which is said to have given a peculiar charm to his delivery. Col. Towns was never fond of poring over documents, or statistics, to clog his imagination. He generally took a common-sense view of any subject, and then made it attractive by ornamentation. In this, however, the author may possibly do him injustice. He confesses he has formed this opinion more from inference, other things known, than from actual opportunity. He never heard Col. Towns speak, either in the Legislature, at the bar, or on the hustings, as during most of his public career they did not reside in the same State.

But Col. Towns, successful as he had been, riding in triumph over all opposition at the ballot-box, was at length, like other men, destined to failure. In 1846, he was a candidate for re-election to Congress, and was defeated in a contest with John W. Jones, Esq. It was doubtless a severe mortification; and, when he took final leave of Congressional life on the 4th March, 1847, it is very probable he had gloomy views of the future as to political advancement. Little did he then dream that he was to be made Governor by reason of this very *misfortune*! Had he continued in the House of Representatives, the Democratic Convention of June, 1847, would have chosen another standard-bearer. But he was out of *position*, and had been too faithful to be neglected. Such

was the case of Mr. Polk, in 1844. Had he not been defeated for Governor of Tennessee by Gov. Jones in 1843, it would not have occurred to the Baltimore Convention to take him up as an *experiment*.

On the same principle, the defeat of Mr. Fillmore for Governor of New York in 1844 made him President of the United States in 1850, by an obvious process. Had not Gov. Wright (the competitor of Mr. Fillmore) carried the State of New York for Mr. Polk, it is certain that Mr. Clay would have been the President. Committed as he was, had he been elected President of the United States, there would have been no annexation during his term of office,—perhaps at no other time, with his policy established. If no annexation, then there would have been no war with Mexico, and of course no battles on the Rio Grande, at Monterey and Buena Vista, to make Gen. Taylor, the Whig candidate, President of the United States; and, if no Whig President, then there could have been no Whig Vice-President. Thus it is shown that good fortune occasionally springs out of a seeming disaster. Mr. Fillmore sincerely grieved at the defeat of Mr. Clay, not permitted to see in the future that he himself, by means of that very defeat, was to become President of the United States and *California* received as a member of the Union, with consequences forming a new era in the history of civilization.

Mr. Fillmore and Col. Towns served together in Congress, and, no doubt, very kind personal relations existed between them. Both had been defeated: both rose to be Chief-Magistrates through defeat. The letter of Mr. Fillmore to Mr. Clay on the calamity of 1844 is incorporated in this memoir, not because the letter is well written and its statements true, but because its forebodings were unjust to the Democratic party,—as their administrations of the Government have since verified:—

MILLARD FILLMORE TO HENRY CLAY.*

BUFFALO, November 11, 1844.

MY DEAR SIR:—I have thought for three or four days that I would write you; but really I am unmanned. I have no courage or resolution. All is gone! The last hope (which hung first upon the city of New York and then upon Virginia) is finally dissipated, and I see nothing but despair depicted on every countenance!

For myself I have no regrets. I was nominated much against my will; and, though not insensible to the pride of success, yet I feel a kind of relief at being defeated. But not so for you or for the nation. Every consideration of justice, every feeling of gratitude, conspired in the

* Private Correspondence of Henry Clay, edited by C. Colton, p. 497.

minds of honest men to insure your election ; and, though always doubtful of my own success, I could never doubt yours till the painful conviction was forced upon me.

The Abolitionists and foreign Catholics have defeated us in this State. I will not trust myself to speak of the vile hypocrisy of the leading Abolitionists now. Doubtless, many acted honestly but ignorantly in what they did. But it is clear that Birney and his associates sold themselves to Locofocoism ; and they will doubtless receive their reward.

Our opponents, by pointing to the Native Americans and to Mr. Frelinghuysen, drove the foreign Catholics from us and defeated us in this State.

But it is in vain to look at the causes by which this infamous result has been produced. It is enough to say that all is gone ; and I must confess that nothing has happened to shake my confidence in our ability to sustain a free government so much as this. If, with such issues and such candidates as the national contest presented, we can be beaten, what may we not expect ? A cloud of gloom hangs over the future. May God save the country, for it is evident the people will not !

So much by way of digression, yet not devoid of interest. The rival candidates for the Presidency in 1844 (Henry Clay and James K. Polk) are both beyond the casualties of time.

In the canvass of 1847, Gen. Duncan L. Clinch was nominated by the Whigs, and Col. Towns was nominated by the Democrats, for the office of Governor. After a spirited campaign, the result was 43,220 votes for Towns and 41,931 for Clinch, giving a majority of 1289 votes to the former, who, at the session of 1847, in presence of both Houses of the Legislature, was declared duly elected Governor, and, after the usual ceremonies, took the oath of office. In 1849, he was again nominated by his party, and had the honor of beating Edward Y. Hill, his Whig competitor, by the increased majority of 3192 votes, the ballot standing 46,514 for Towns and 43,322 for Hill. With the pageantry usual on such occasions, the assembling of the Senate in the Representative-Chamber, the presence of the judicial officers of the State by invitation, and, above all, the crowded gallery of fashion and beauty, giving splendor to the scene, the second inaugural of Gov. Towns was delivered,—victory enough to the farmer-boy ! His laurels had been richly earned, and gracefully did he wear them.

The exciting subject between the North and South became more absorbing than ever in 1849 and 1850. An extract from the message of Gov. Towns to the Legislature at the session of 1849 is given :—

The Constitution, which declares that "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to

whom such service or labor may be due," is wholly disregarded, and several States have passed laws virtually nullifying it. The slaveholder can no longer look to the Constitution as the charter of his rights. His slave is abducted, or feloniously stolen, and carried to a non-slaveholding State: he pursues it with the consciousness of an honest man, holds up the evidence of his title in one hand, and the Constitution in the other: he pleads for justice and his constitutional right: the judge that tries his case is sworn to support the Constitution of the United States; but that judge, with the smile of the hypocrite, and the curse of perjury in his throat, solemnly adjudges that property cannot exist in the slave, and the owner is insultingly turned from the bar of justice amid the derision and scoffing of the multitude, and your Constitution lies prostrate under the iron heel of a corrupt judiciary.

This is an epitome of the wrongs perpetrated upon us. Is it true or false? Have not several of the Northern States passed laws prohibiting our citizens from reclaiming their fugitive slaves? Have they not, time and again, refused to deliver, on the demand of the Executive authority of the Southern States, fugitives from justice charged with negro-stealing? These are stubborn facts that should come home to all. Robbed of your slave-property without the power of redress, opposed by brute force in asserting your rights, your criminal laws violated, your sovereignty outraged, your peace and quiet disturbed, your good name defamed; and, lastly, you are told, by way of giving point and anguish to the feeling of wrongs already inflicted, that you are not to participate on equal terms with the other States of the Union in the common property of all.

Is it, Representatives, for this that our fathers struggled in deadly conflict? Was it for such a Union as this that the sages and patriots—many of whom breasted the storm of the Revolution—formed the Constitutional compact? Was it designed that the States should not have the power of deciding each for itself what would or should not be property? or was it intended that any party or faction in this country, whether Free-Soil or known by any other name, might violate the most vital provision of the Constitution, so far as the South is concerned, with impunity? Feeling as I do the incalculable value of the Union in that purity of equality handed down to us by the great apostles of liberty that formed it, entertaining with ardor and sincerity a feeling of horror at all attempts by one section of the Union to violate the rights of another, and cherishing the spirit of liberty and equality, actual and positive, in government above and far beyond unequal laws and odious oppression, I may be permitted here to reaffirm the sentiments with which I went before the people of the State in the late election, as containing my opinion that further aggression is not to be endured, and, if attempted by the Federal Government, must be repelled—all amicable means being first exhausted—by all the power, moral and physical, at the command of the State.

With the confident belief that the opinions here expressed accord strictly with those of the great body of our constituents, I feel it my duty to ask of you the passage of an act investing the Executive with the authority to convoke a convention of the people of the State to take into consideration the measures proper for their safety and preservation in the event of the passage of the Wilmot proviso, or other kindred measure, by the Congress of the United States. Relying upon the purity of our motives, and feeling deeply impressed with the magnitude of the duties

that devolve upon us, let us ever be mindful that our strength and capacity for usefulness come alone from that Being whose favor is success, whose aid is omnipotence.

The Legislature adopted the following resolutions, which received the Executive assent on the 8th day of February, 1850:—

Whereas, the people of the non-slaveholding States have commenced and are persisting in a system of encroachment upon the Constitution and the rights of a portion of the people of this Confederacy, which is alike unjust and dangerous to the peace and perpetuity of our cherished Union: be it—

1st. *Resolved, by the Senate and House of Representatives of the State of Georgia, in General Assembly convened,* That the Government of the United States is one of limited powers, and cannot rightfully exercise any authority not conferred by the Constitution.

2d. *Resolved,* That the Constitution grants no power to Congress to prohibit the introduction of slavery into any Territory belonging to the United States.

3d. *Resolved,* That the several States of the Union acceded to the Confederacy upon terms of perfect equality; and that the rights, privileges, and immunities secured by the Constitution belong alike to the people of each State.

4th. *Resolved,* That any and all territory acquired by the United States, whether by discovery, purchase, or conquest, belongs in common to the people of each State, and thither the people of each State and every State have a common right to emigrate with any property they may possess; and that any restriction upon this right which will operate in favor of the people of one section to the exclusion of those of another is unjust, oppressive, and unwarranted by the Constitution.

5th. *Resolved,* That slaves are recognised by the Constitution as property; and that the Wilmot proviso, whether applied to any territory at any time heretofore acquired, or which may be hereafter acquired, is unconstitutional.

6th. *Resolved,* That Congress has no power, either directly or indirectly, to interfere with the existence of slavery in the District of Columbia.

7th. *Resolved,* That the refusal on the part of the non-slaveholding States to deliver up fugitive slaves who have escaped to said States, upon proper demand being made therefor, is a plain and palpable violation of the letter of the Constitution, and an intolerable outrage upon Southern rights; and that it is the imperative duty of Congress to pass laws providing for the enforcement of this provision of the Constitution by federal, judicial, and ministerial officers responsible to the Federal Government.

8th. *Resolved,* That in the event of the passage of the Wilmot proviso by Congress, the abolition of slavery in the District of Columbia, the admission of California as a State in its present pretended organization, or the continued refusal of the non-slaveholding States to deliver up fugitive slaves as provided in the Constitution, it will become the immediate and imperative duty of the people of this State to meet in convention to take into consideration the mode and measure of redress.

9th. *Resolved,* That the people of Georgia entertain an ardent feeling of devotion to the union of these States, and that nothing short of a persistence in the present system of encroachment upon our rights by the

non-slaveholding States can induce us to contemplate the possibility of a dissolution.

10th. *Resolved*, That his Excellency the Governor be requested to forward copies of these resolutions to each of our Senators and Representatives in Congress, to the Legislatures of the several States, except Vermont and Connecticut, and to the President of the United States.

Congress subsequently admitted California as a State into the Union, with its "pretended organization." This was perhaps the only one of the series of compromise-measures which devolved upon Gov. Towns the duty of calling a convention of the people.

On the 23d day of September, 1850, Gov. Towns issued a proclamation of considerable length, reciting the action of Congress and the course of the Northern majority, rendering it proper for Georgia to take measures for her own safety and happiness, and requiring elections to be held in the several counties on Monday, the 25th day of November, for delegates to a State Convention, to assemble in the Capitol at Milledgeville on Tuesday, the 10th day of December, 1850, each county to be entitled to double the number of delegates that it has Representatives in the Legislature.

Just here, between the call of the Convention and the proceedings of that body, the author interrupts the course of the narrative to show that it was the melancholy privilege of Gov. Towns to give his official sanction, December 5, 1849, to the following resolutions relative to the death of Gen. D. L. Clinch :—

We have heard with pain and regret of the death of Gen. Duncan L. Clinch, distinguished for many years as an officer of the army. He rendered valuable services on every field of duty to which he was assigned. Honor, gallantry, and a faithful discharge of every trust were his shining virtues,—virtues which go far to redeem the infirmities incident to human nature, and gild his character with an imperishable halo. When such a man dies, the country mourns. In honor of his memory,—

Be it therefore Resolved, by the General Assembly, That, while in life Gen. Clinch commanded our esteem, in death we mingle our sympathies with his family, friends, and fellow-citizens.

Be it further Resolved, That his Excellency the Governor be requested to furnish his family with a copy of this preamble and resolutions.

Here let a grateful community call to mind the fallen hero, who never turned his back upon a friend or an enemy, and let justice be done to his character. He is well entitled to the honor of having a county called by his name.

At the time appointed by the Governor's proclamation, the people in the several counties elected delegates to the State Convention. On the 10th December, 1850, two hundred and sixty delegates, representing ninety-five counties, appeared in the Repre-

sentative-Chamber and organized. The Hon. Thomas Spalding was chosen President, William B. Wofford and Andrew J. Miller Vice-Presidents, and Robert S. Lanier Secretary.

On motion of Mr. Jenkins, of Richmond, a committee of three from each judicial district was appointed by the Chair, to report, for the consideration of the Convention, action appropriate to the occasion.

The President appointed the committee as follows:—

Middle District—C. J. Jenkins, Lawton, and Flournoy.

Eastern—F. S. Bartow, J. H. Couper, and Smith.

Southern—E. J. Blackshear, George Wilcox, and Gatlin.

Southwestern—W. H. Crawford, Taylor, and Irwin of Lee.

Chattahoochee—A. McDougald, Clarke, and Bivins.

Coweta—E. Y. Hill, Murphy, and Slaughter.

Cherokee—L. Tumlin, Lawhon, and Chastain.

Western—A. Hull, W. J. Hill, and Knox.

Northern—G. R. Gilmer, Baxter, and Long.

Ocmulgee—A. H. Kenan, Sanford, and Meriwether.

Flint—A. M. D. King, J. N. Williamson, and Robert Collins.

The report of the committee (of course the production of its chairman, the Hon. Charles J. Jenkins) occupies about nine large pages of the printed Journal of the Convention, and is confessedly one of the ablest papers ever submitted to any deliberative body. The author regrets that its length precludes its entire from this memoir. The resolutions with which it concluded, known by way of pre-eminence throughout the country as the GEORGIA PLATFORM, adopted by a vote of 237 to 19 in the Convention, are as follows:—

To the end, therefore, that the position of this State may be clearly comprehended by her confederates of the South and of the North, and that she may be blameless of all future consequences:—

Be it Resolved, by the People of Georgia in Convention assembled: 1st. That we hold the American Union secondary in importance only to the rights and principles it was designed to perpetuate. That past associations, present fruition, and future prospects will bind us to it so long as it continues to be the safeguard of those rights and principles.

2d. That if the thirteen original parties to the contract, bordering the Atlantic in a narrow belt, while their separate interests were in embryo, their peculiar tendencies scarcely developed, their Revolutionary trials and triumphs still green in memory, found union impossible without compromise, the thirty-one of this day may well yield somewhat, in the conflict of opinion and policy, to preserve that Union which has extended the sway of republican government, over a vast wilderness, to another ocean, and proportionally advanced their civilization and national greatness.

3d. That, in this spirit, the State of Georgia has maturely considered

the action of Congress embracing a series of measures for the admission of California into the Union, the organization of territorial Governments for Utah and New Mexico, the establishment of a boundary between the latter and the State of Texas, the suppression of the slave-trade in the District of Columbia, and the extradition of fugitive slaves, and (connected with them) the rejection of propositions to exclude slavery from Mexican territories and to abolish it in the District of Columbia; and, whilst she does not wholly approve, will abide by it as a permanent adjustment of this sectional controversy.

4th. That the State of Georgia, in the judgment of this Convention, will and ought to resist, even (*as a last resort*) to a disruption of every tie which binds her to the Union, any action of Congress upon the subject of slavery in the District of Columbia or in places subject to the jurisdiction of Congress, incompatible with the safety, domestic tranquillity, the rights and honor of the slaveholding States; or any act suppressing the slave-trade between slaveholding States; or any refusal to admit as a State any Territory hereafter applying, because of the existence of slavery therein; or any act prohibiting the introduction of slaves into the Territories of Utah and New Mexico; or any act repealing or materially modifying the laws now in force for the recovery of fugitive slaves.

5th. That it is the deliberate opinion of this Convention that upon the faithful execution of the *Fugitive Slave Law* by the proper authorities depends the preservation of our much-loved Union.

In reference to the Western and Atlantic Railway, known as the State Road, Gov. Towns, in his message of 1849, thus expressed himself:—

The valleys between the almost innumerable ledges of mountains to be met with in this section of the State, containing large tracts of land equal in fertility to any in the Valley of the Mississippi, have been hitherto locked out from trade by natural barriers; the inhabitants, from almost insurmountable difficulties in obtaining a market, were deterred from all efforts to produce much beyond the requirements of domestic consumption; but now they are being aroused to action and to enterprise by the stimulating and magic influence of accessibility to the markets of the world. None can anticipate the capacity of this interesting region for agricultural products, to say nothing of its mines and minerals. If this be true,—and the receipts of our railroad prove it to be so,—what must be the increased business of the road when the hardened and industrious citizens of the mountain-regions of Tennessee are aroused by the inducement of a home market at remunerating prices? Will not their efforts be invigorated, and shall we not see the swelling tide of commerce rolling down from that region in such quantities as will bring to our treasury solid and tangible evidence of the wisdom of completing the road to the Tennessee River?

In this picture, imperfect as it is, of our present and future prosperity, let us not be unmindful that much yet remains to be done to perfect and equalize, as far as practicable, the advantages and benefits of a judicious system of internal improvement that will meet the wants of every section. To travel on the smooth path of prosperity, it is of vast importance that we keep steadily in view the sacred principles of good faith to all men and in all things: therefore, let me in the most respectful manner recom-

mend that no temptation, however strong, induce you to permit the net proceeds of the railroad to be applied to any other object until the last farthing of the existing liens be fully discharged. When that is done, we have an ample field for the exercise of a powerful element in the advancement of the social and intellectual condition of our youth. By prudent economy and wise forecast, the receipts from this road, after discharging the just charges against it, will furnish a fund by which a system of common schools can be extended throughout the State.

It will be a proud day for Georgia when, by her public improvements, the conviction is brought home to all that every section of the State has been stimulated to its greatest productive capacity, whether of agriculture, manufactures, or commerce; and prouder and more glorious still will that day be when, by the wisdom of her measures, she can boast of not having an uneducated son or daughter within her limits. These are the prominent objects to which your deliberations should be directed: they are worthy the consideration of the statesman, and, if accomplished, will command the admiration of posterity.

The present very wise and just principle of taxation on the value of property of every description was recommended by Gov. Towns, as will be seen by a further extract from his message in 1849:—

No system of taxation which does not bear equally upon the property of the whole people can be just. The property of every citizen is equally protected by law, and therefore natural justice would seem to demand that it should contribute equally to the support of Government. The maxim that equality is equity is peculiarly true in raising an income for the State; and though a wise discrimination in some instances in favor of specific property, with a view of stimulating production in which the public at large may have an interest equivalent to the surrender of its due portion of taxes, may be tolerated as an exception to the rule to be continued for a season, yet these exceptions do not impair the essential, just, and enduring principle of *ad valorem* taxation.

Individual or political rights are equal with the poor and the rich: in this respect there can be no difference; and therefore, if a poll-tax is imposed at all, it should be set apart and applied to objects of education, in which all have an equal interest, whatever their condition may be. But as regards property this equality is not found to exist; and as Government is as much bound to protect and defend the citizen's right of property as it is his personal or political rights, so, in the same ratio as the aggregate property of one citizen exceeds that of another should your system of finance exact contributions of the one over the other for the support of Government.

With these principles kept in view, it remains to be seen whether the present system of specific taxation falls unequally upon different interests, and therefore unjustly, and whether the *ad valorem* system would remedy the evils now supposed to exist. In reference to the gross and palpable inequality of the present tax-law, it is so universally understood and acknowledged, that it might be regarded as a useless waste of time to enter into any detailed statement on the subject. If the objects of taxation be considered in reference to agriculture, commerce, or manufactures, the inequality is striking.

The classification of lands operates unjustly. Lands of equal value,

situated in different sections of the State, and in some instances in the same county, are subject to a different rate of taxation; nor is it believed that any classification of real estate can be made that will remedy this defect.

The same remark is true of slaves, on all of whom is imposed a specific tax, irrespective of their true value,—making the tax on a slave worth one hundred dollars the same as upon one worth one thousand. Not only does this inequality exist in regard to the agricultural interest, but when it is contrasted with the commercial we are again astonished at an inequality as impolitic in principle as unwarrantable in its discriminations. If commerce is injurious to the State, strike at it boldly; but if it is essential to the well-being of the people, conducive to their prosperity, and honorable in its aims and object, abstain from all discriminations against it. Instances might be multiplied more fully demonstrating the inequality of the present system of collecting taxes; but sufficient has been said, it is hoped, to insure your patient investigation,—the result of which I cannot permit myself to doubt. The benefits resulting from the substitution of the *ad valorem* principle over the specific would be to invigorate and stimulate every branch of productive industry; to give quiet and confidence to the different interests, by equalizing the burdens of Government; to secure to your treasury, at all times and under all circumstances, adequate means to meet all the exigencies of the State; to diminish the taxes, by raising no more money than is needed; relieving the poor, by throwing the burden of taxation upon the property of the more wealthy; placing your public credit beyond the reach of false friends or open enemies; inspiring the people with confidence in the Government; substituting equal and just laws for unequal, unjust, and oppressive ones.

These may be regarded as some of the happy fruits to be produced by the proposed change.

Can it be believed that the people, so deeply interested in this measure, will not give it their warm and cordial support? To think otherwise would be a reflection upon their intelligence, and to doubt their devotion to the best interests of the State. Such an opinion others may entertain, but it can receive no countenance from me.

These somewhat copious extracts from the official communications of Gov. Towns were deemed necessary to do him justice. The method of taxation he advised will ever be creditable to his memory. As his Executive papers at the session of 1849 were the last he ever wrote, they deserve to be in a form more conveniently accessible to inspection than the Journals of the Legislature. For this reason extracts are so freely introduced in this memoir.

In November, 1851, Gov. Towns retired from the Executive chair with an enviable popularity. It was his intention to devote himself to that class of practice in his profession which his long experience, his peculiar gifts before the jury, and his commanding position in society would necessarily attract. And at this point a description of his eloquence and grace of manner, so far as the author can form an opinion from hearsay, will be attempted.

Gov. Towns was a Chesterfield in his address. Nothing could
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exceed the suavity of his disposition and the ease of his manner. He was truly a refined gentleman, courteous and unpretending with the plain and diplomatic with the precise, just as the society he was in for the time-being demanded such an exhibition of character. He was all this entirely without effort: it was constitutional, therefore pleasant to all. He had a friendly word, a kind recognition, for each individual. The charm was complete. He satisfied all. His manner claimed no superiority over other men, and yet it signified that he was as good as any. He never appeared upon stilts, nor did he forget his self-respect in his most careless moods. He had romance enough in his nature to give variety and sprightliness to his familiar talk, and reflection enough to keep himself within the bounds of propriety at all times and in every presence. Such was Gov. Towns as a man.

At the bar his rank was decidedly high as an advocate. He possessed all the requisites of an orator to control the jury. He knew when to attack and defend suitors and witnesses, and how to sift the evidence, making such portions of it as he desired answer his object; and other portions he brought into discredit by showing contradictions or prejudice in the witness. Generally this operation was conducted with perfect good-nature; yet, when it became necessary to the success of his cause, and there was ground for indulging harsh comment, he was very caustic and withering. That man who fell under his wrath never forgot the occasion.

In its subdued tones his voice was like plaintive music. Its intonations were faultless. His language at such times was the poetry of emotion; his gestures adapted themselves, without consciousness on his part, to the passion or circumstances of the case. The human heart was an open thing to him. He could play upon it in smiles or in tears with almost the skill of Patrick Henry; yet he lacked the thunderbolts of that Jove of eloquence, to rival the grandeur of the storm.

With these elements of success ripened into maturity by practice and established in many a contest, Gov. Towns had before him as inviting a prospect as ever allured the imagination. His return to the bar was hailed by his professional brethren with universal cordiality. All within his attendance looked forward to much enjoyment in his society, to much improvement by his example, and the more ambitious to something like conquest, or the stimulation of their faculties in competing with him before "the country." There had been a Forsyth, with his fluent simplicity and inimitable sneer; a Berrien, with his music phrase and classic gestures; a

Wilde, polished in diction and lofty in thought; a Colquitt, with the arrows of nature barbed for the rhinoceros or softly edged for the hare: there had been such advocates in Georgia, honored, glorious; yet it was the *prestige* of Gov. Towns to differ from them all, perhaps to excel them all, in the spontaneous gushings of the heart,—in the electric sympathy that, kindling with the orator, burst out and blazed in every bosom,—court, jury, bar, audience, all melted, all subdued, by the occasion. Such was the man, and such the prospect, when he retired from the Executive chair in November, 1851.

A few months revolve,—a few months of bright hopes and increasing happiness,—when suddenly the scene is changed! the tongue of the orator is palsied, his frame a hopeless wreck! Unable to write a line, and almost unable to articulate a word intelligibly, Gov. Towns lingered in a deplorable condition, amid the grief of friends and the sympathies of the public, until Death terminated his calamity, on the 15th day of July, 1854, at his residence in the city of Macon, in the fifty-fourth year of his age.

The eulogies of the press without distinction of party, and other public testimonials, (the Legislature gave his name to a new county,) attested the strong hold he had on the affections of the people. He was indeed a "bright particular star," quenched in its sphere by a dispensation so mysterious that the pride of man sinks into dust, and all his hopes vanish as a dream, when the last days of Gov. Towns are recalled to memory. He viewed the approach of death with the fortitude of a philosopher, and triumphed over his last enemy!

With the domestic relations of Gov. Towns the author has not been made particularly acquainted. It is known that he married before he engaged in public life, and soon became a widower. While a member of Congress some twenty years ago, Gov. Towns was united in marriage to a daughter of the Hon John W. Jones, of Virginia, formerly Speaker of the United States House of Representatives. By this union there were several children, who, with their mother, are still living. One of his daughters has married since his death.

NOTE TO THE MEMOIR OF GOV. TOWNS.

The author takes pleasure in subjoining a letter which he received after the completion of the memoir. He prefers giving it entire, and of course yields to the information of Dr. Gardner

wherever the narrative conflicts. The only material variance is in relation to merchandizing and editing a paper in Alabama by Col. Towns. Of this the author expressed his want of confidence; but he permits it to remain, as Dr. Gardner is not so positive in his knowledge on the subject as to exclude its probability. The letter itself is interesting in many particulars, and adds to the value of the memoir:—

RENWICK, LEE COUNTY, GEORGIA, June 5, 1857.

DEAR SIR:—Yours of 28th April came to hand some time last month; and, after such preparation as I have been able to make, I proceed to answer it.

John Towns, the father of Gov. Towns, was a fighting Whig of the Revolution. In one of the battles his friend James Hardwick was shot. When he fell, his hat rolled to John Towns's feet. Hardwick left a widow, and, I think, two sons, one of whom—David Hardwick, Esq.—survived till last year, when he died in Alabama, having recently removed from Stewart county, Georgia. John Towns and the widow Hardwick (whose maiden name was George) married; and the issue was four sons and three daughters,—my wife, Nancy G. Towns, alone surviving. The youngest, George Washington Bonaparte Towns, is the subject of this notice.

The family is Virginian. John Towns emigrated, soon after the Revolution, to Wilkes county, Georgia, where George was born on the 4th of May, 1801. John Towns moved from Wilkes to Greene, and thence to Morgan county.

George received such education as the county academies of the times afforded, and was distinguished in composition and elocution.

He commenced the study of medicine with Dr. (I think Joel) Branham, in Eatonton; but while on a visit at home, in Morgan, he was thrown from a horse against a stump and gravely injured in the chest. From this casualty it is probable his constitution never fully recovered. A slow recovery and feeble health drove the thoughts of the medical profession from his mind.

At the age of twenty, he was in Montgomery, Alabama, and read law with — Benson, an eminent lawyer at that time.

About this time he "led to the hymeneal altar" Miss Campbell, a sister of John W. Campbell. The lady was in feeble health at the time of the marriage, and died in three or four days,—producing such a shock on his sensitive mind that years and years could not obliterate.

I think he came from Montgomery direct to Talbot. He speculated with some success in town-lots in Montgomery, and he was interested in merchandizing in Talbot. I do not know that he ever edited a newspaper.

He was, I think, the first colonel of the militia of Talbot. He was very popular, and could be easily elected; and just about there his military pretensions and qualifications ended.

I saw him first in 1833. He was represented to me as the leading Democrat in the county. He was pale,—evidently was, or had been, in delicate health. He was in apparently earnest and anxious conversation, and the first impression was unfavorable,—an impression that all after-intercourse obliterated.

From this time forward your judgment of his character will probably be better than mine.

His resignation of his seat in Congress, when one of the opposite party was elected to fill the vacancy, put Col. Towns in bad odor with his party; and it was many years before he recovered his position.

There was a timidity in Towns's character that made him desirous to postpone difficulties. When the fight had to come, he bore himself gallantly enough. No man could excel him in getting a *continuance*. In the defence of a capital case he was unsurpassed. Some ten or twelve who deserved the gallows "went unwhipt of justice" by his forensic efforts. He greatly disliked to be engaged for the prosecution.

Mr. Jones, the father of Mrs. Towns, held distinguished rank in the United States House of Representatives. I do not at the moment recollect with certainty if he were Speaker: think he was. His abilities were, however, more conspicuous as the able Chairman of the Committee of Ways and Means. Mrs. Mary Towns is an accomplished lady,—devoted to the superintendence and education of her children, five daughters and two sons. The grace and propriety with which she did the honors of the Executive Mansion have made her so well and favorably known that she needs no eulogy in Georgia.

I cannot close without a tribute of respect and consideration to the memory of Mrs. Margaret Towns, the mother of Col. Towns. She lived to an advanced age, and was as remarkable for her devoted attachment to "Georgy" as he was for his kindness to her. Pious and kind to all, many persons in Talbot bear testimony to her virtues, and regarded her as a good representative of the excellent women of the past century.

Note.—Somewhere about 1840, or perhaps earlier, Col. Towns dropped "Bonaparte" from his name.

I do not know that what I have written will be of any service to you. You will please make such use of this as, in your own judgment, you see proper. I will not be at all offended if you entirely overlook it.

Very respectfully, yours, &c.,

JAMES Y. GARDNER.

XXXII.

RICHARD H. WILDE.

THE reputation of this gentleman is not confined to Georgia nor to the United States, but has a European stamp. He combined abilities and taste in a degree not only securing honor to himself, but reflecting it on the literature of his country. His pen had a magic sweetness and rhythm about it which distinguished it from all other styles. It was lively, chaste, and discriminating, with judgment and imagination happily united, as the author expects to show by evidence more worthy of credit than his mere opinion. The task of writing the memoir of such a man, such a jurist, such a statesman, and such a scholar as RICHARD HENRY WILDE should not be undertaken without a due sense of responsibility.

Desiring to obtain facts from the most reliable sources for his narrative, the author, at an early stage of his contemplated work, addressed a letter to John P. Wilde, Esquire, a son of Mr. Wilde, stating his purpose, and asking particulars in the early life of his father. In due time the author received a communication, which he submits, together with the sketch accompanying it:—

NEW ORLEANS, NOV. 12, 1851.

DEAR SIR:—I have just got back from Augusta, Georgia, where I have been spending the summer with my uncle's family. Your letter was only handed me the other day. By the neglect of the young men in Mr. Benjamin's office, it had not been forwarded.

It will afford me the greatest pleasure to furnish you the desired information, and I beg leave to assure you that your design meets my entire and cordial approbation. I have written out a short sketch of my lamented father's life, which will answer all your questions. I have a number of his speeches and arguments, which I will send you.

With regard to the engraving, we have an excellent portrait by the late Mr. Cook, which was taken a few months before my father's death, which might be daguerreotyped. I hope Mr. Benjamin may be able to furnish you with the sketch, but doubt it very much, as his attention is so much engrossed with law and politics. I believe he is not yet returned from Paris.

My own time is so occupied with my profession that I was much pressed to write even the short sketch from Griswold which I send you. Had I received your letter this summer, during the vacation of our courts, I would have written a much fuller memoir myself. I will, however, most cheerfully do all in my power to assist you, and furnish any facts or infor-

mation you may require, as I am very desirous that the sketch should be an accurate one.

Respectfully, your obedient servant,

JOHN P. WILDE.

P.S.—I have heard that Mr. Benjamin has just returned. Please let me hear from you at your earliest convenience.

[ENCLOSURE.]

RICHARD HENRY WILDE, son of Richard Wilde and Mary Newitt, was born in the city of Dublin, on the 24th of September, 1789. Both branches of the family were strong Royalists. John Newitt sells out some flour-mills on the Hudson, and returns to Ireland, on the breaking out of the Revolutionary War. Devotion to the Government does not save them from ruin. Richard Wilde sails for America in December, 1796, after loading a vessel belonging to a sea-captain by the name of Richard Lemon. The captain was to sell his vessel and refund Richard Wilde on reaching Baltimore,—profits and loss to be divided between them.

They arrived in Baltimore in January, 1797. The rebellion of 1798 breaks out in Ireland. Shortly after their arrival in America, Mr. McCready, the partner of Mr. Wilde, being convicted of treason, every thing is confiscated,—Mr. Wilde's absence confirming the suspicion of his being implicated also. On his arrival at Baltimore, the goods he brought over are seized, as belonging to Lemon, by a Mr. G. Prestman. After long and tedious litigation, they are recovered, when Mr. Wilde hears that he has lost every thing in Ireland. Mr. Wilde dies in 1802, and the family move to Georgia in 1803; and in 1806 his widow sails to Ireland with the hope of recovering some small portion of the large fortune of her husband,—in which, however, she is disappointed. She returns to Georgia in July, 1815, only a few months before her son is elected to Congress.

The childhood of Richard Henry Wilde was passed in Baltimore. He was taught to read by his mother, and received instructions in writing and in Latin grammar from a private tutor, until he was about seven years old. He afterward attended an academy; but, his father's affairs becoming embarrassed, in his eleventh year he was taken home and placed in a store. His constitution was at first tender and delicate. In his infancy he was not expected to live from month to month, and he suffered much from ill health until he was fifteen or sixteen.

This induced quiet, retiring, solitary, and studious habits. His mother's example gave him a passion for reading, and all his leisure was devoted to books. The study of poetry was his principal source of pleasure when he was about twelve years old. He inherited his poetical taste and talents from his mother, many of whose pieces, remarkable for their vigor of thought and beauty of versification, are still preserved among the papers of the family.

As before stated, his father died in 1802; and, gathering as much as she could from the wreck of his property, his mother removed to Augusta, Georgia, and commenced a small business for the support of her family. There, young Wilde, amid the drudgery of trade, taught himself book-keeping, and became familiar with the works on general literature which he could obtain in the meagre libraries of the town or from his personal friends.

The expenses of a large family, and various other causes, reduced the little wealth of his mother; her business became unprofitable, and he

resolved to study law. Unable, however, to pay the usual fee for instruction, he kept his design a secret as far as possible, borrowed some elementary books from his friends, and studied incessantly, tasking himself to read fifty pages and write five pages of notes, in the form of questions and answers, each day, besides attending to his duties in the store. And to overcome a natural diffidence, increased by a slight impediment in his speech, he appeared frequently as an actor at a dramatic society which he had called into existence for the purpose and to raise a fund to support a public library. All this time his older and graver acquaintances, who knew nothing of his designs, naturally confounded him with his thoughtless companions who sought only amusement, and augured badly of his future life. He bore the injustice in silence, and pursued his secret studies for a year and a half, at the end of which, pale and emaciated, feeble, and with a consumptive cough, he sought a distant court to be examined, that, if rejected, the news of his defeat might not reach his mother.

When he arrived, he found he had been wrongly informed, and that the judges had no power to admit him. He met a friend there, however, who was going to Greene Superior Court; and, on being invited by him to do so, he determined to proceed immediately to that place. It was the March Term for 1809, Judge Early presiding; and the young applicant, totally unknown to any one save the friend who accompanied him, was at intervals during three days subjected to a most vigorous examination. Judge Early was well known for his strictness, and the circumstance of a youth leaving his own circuit excited his suspicion; but every question was answered to the satisfaction and even admiration of the committee, and he declared that "the young man could not have left his circuit because he was unprepared." His friend certified to the correctness of his moral character: he was admitted without a dissenting voice, and he returned in triumph to Augusta. He was at this time under twenty years of age.

His health gradually improved. He applied himself to the study of *belles-lettres* and to his duties as an advocate, and rapidly rose to eminence, being in a few years made Attorney-General of the State. He was remarkable for industry in the preparation of his cases, sound logic, and general urbanity. In forensic disputation he never indulged in personalities,—then too common at the bar,—unless in self-defence; but, having studied the characters of his associates and stored his memory with appropriate quotations, his ridicule was a formidable weapon to all who attacked him.

In the autumn of 1815, when only a fortnight over the age required by law, Mr. Wilde was elected a member of the National House of Representatives. At the next election, all the Representatives from Georgia except one were defeated, and Mr. Wilde returned to the bar, where he continued (with the exception of a short service in Congress in 1825) until 1828, when he again became a Representative, and so continued until 1835.

I have not room to sketch his character as a politician very closely. On the occasion of the Force Bill, as it was called, he differed from a majority in Congress, considering it a measure calculated to produce civil war, and justified himself in a speech of much eloquence. His speeches on the Tariff, the relative advantages and disadvantages of small-note currency, and on the removal of the deposits by General Jackson, show what are his pretensions to industry and sagacity as a politician.

Mr. Wilde's opposition to the Force Bill and the removal of the deposits rendered him as unpopular to the Jackson party in Georgia as his letter from Virginia had made him with the Nullifiers; and at the election of 1834 he was left out. This afforded him the opportunity he had long desired of going abroad to recruit his health, much impaired by a long and arduous public service and by repeated attacks of diseases incident to Southern climates. He sailed for Europe in June, 1835, spent two years in travelling through England, France, Belgium, Switzerland, and Italy, and settled during three years more in Florence. Here he occupied himself entirely with literature. The romantic love, the madness and imprisonment, of Tasso, had become a subject of curious controversy; and he entered into the investigation "with the enthusiasm of a poet and the patience and accuracy of a case-hunter," and produced a work, published since his return to the United States, in which the questions concerning Tasso are most ably discussed, and lights are thrown upon them by his letters and by some of his sonnets, which last are rendered into English with rare felicity.

Having finished his work on Tasso, he turned his attention to Dante; and having learned accidentally one day, in conversation with an artist, that an authentic portrait of this great poet, from the pencil of Giotto, probably still existed in the Baryello, (anciently both the prison and the palace of the Republic,) on a wall which by some strange neglect or inadvertence had been covered with whitewash, he set on foot a project for its discovery and restoration, which, after some months, was crowned with complete success. "This discovery of a veritable portrait of Dante in the prime of his days," says Mr. Irving, "produced throughout Italy some such sensation as in England would follow the sudden discovery of a perfectly well-authenticated likeness of Shakspeare, with a difference in intensity proportioned to the superior sensitiveness of the Italians."

Mr. Wilde returned to this country, and was for some time engaged in his biographical work concerning Dante. Mr. Wilde's original poems and translations are always graceful and correct. Those that have been published were mostly written while he was a member of Congress, during moments of relaxation, and they have never been printed collectively. Specimens of his translations are excluded in this brief narrative. His versions from the Italian, Spanish, and French languages are among the most eloquent and scholarly productions that have ever been published.

Mr. Wilde was married in 1818, and was left a widower in 1827. He died from yellow fever, in New Orleans, September 10, 1847, aged fifty-eight years. His only children living are two sons.

Most of this sketch is from Griswold's "Poets of America," which is in the main part accurate, except as to the place of his birth. Mr. Griswold says he was a native of Baltimore, which is not so.

The first part of this sketch is from the pen of my brother, who is the eldest son and inherits his father's literary taste and poetical talents. The following paragraph of an obituary notice by N. Oakey Hall, formerly of New Orleans, appeared in the *Commercial Bulletin* :—

"The judge upon the bench, opening his winter term, will have one less cordial nod to bestow as he looks around upon the bar of New Orleans; the youthful advocate will have one less approving smile upon his successful efforts, the University of Louisiana one less matured and enthusiastic parent of its promising infancy; the social circle and the festive board will have one less admired visitant and honored guest; and among

the hundreds who have fallen by the pestilence, none will be more sincerely mourned than the distinguished scholar and amiable gentleman whose coming a few years since all welcomed,—whose untimely removal all deplore.

"In a city like New Orleans, where trade and commerce are the great monopolizers of the human passions, and the plannings and the enterprises of their votaries are the almost absorbing business of life, a man like Mr. Wilde exercised a great humanizing influence. His learning illuminated the labyrinths of commercial transactions; his scholastic graces scattered roses in the retired walks of those escaping for a moment from the toils and burdens of the day; he mingled the amenities of life with its cares, and softened its weary hours with the suggestions and lessons that a refined taste so agreeably prompts.

" 'The evenom'd whirlwind o'er the city pass'd;
And as in forest yields the monarch oak
At rudest summons of autumnal blast,
So didst thou fall before the whirlwind stroke,
O Poet-Jurist, leaving friends behind
Who deeply sorrow thy untimely end,
And offering grief-wove tributes, as they bend
Around thy tomb, unto thy master-mind!
Hush'd are thy lays; the music of thy tongue
Shall ring no more in Learning's halls; nor seen
The stately form, the winning smile, the mien
That charm'd the thousand hearts thou dwelt among;
And, whilst enshrined within those hearts thou'lt be,
Each mourner-friend *will shed a tear for thee!*' "

This concludes the obituary notice. There is a very good description of my father's personal appearance in a book entitled "The Manhattane in New Orleans; or, Phases of Crescent-City Life," by the same gentleman, who is a friend of mine. Have you ever seen the book? I have it, and could copy the paragraph if you should wish it.

Respectfully, your obedient servant,

JOHN P. WILDE.

The author is truly grateful to the son for the very interesting contribution to this memoir; and just here a letter from the father will be introduced, written more than twenty years ago, in reply to one from the author asking the favor of such speeches delivered on leading questions in Congress as would enable a young man to form correct opinions, and especially soliciting copies of the speeches delivered by Mr. Wilde himself. The original letter from Mr. Wilde is now before the author, even more highly prized as time renders the beautiful penmanship somewhat dim to the vision.

HOUSE OF REPRESENTATIVES, May 14, 1834.

(Private.)

DEAR SIR :—I have the pleasure to acknowledge the receipt of your obliging favor of the 3d instant, and to return you my thanks for the expressions of kindness it contains. It affords me just satisfaction to comply, so far as is in my power, with your request, by sending you a few of such speeches

and documents as I have by me : there are others which I would gladly transmit if they were attainable ; but these things get completely out of print in a short time, and often it is impossible to find a single copy of a popular speech.

The peculiar subject of interest now, and for some time to come, must be the *currency* ; and, considering that as a question of permanent, not ephemeral importance, and regarding it, not as it respects men and mere parties, but as it operates on great national interests and the whole frame of our Government, I beg leave to add a speech of mine, delivered two years ago, and now nearly forgotten, which contains many facts useful in forming an opinion on some points concerning money,—the most important and least understood of financial topics.

While you will find me a *bullionist*, agreeing with the English writers and statesmen who unite *paper* systems, and insist on the *convertibility* of notes into coin as essential to their security, and the exclusion of small notes as indispensable, you must not understand me as favoring either the claims of a currency exclusively metallic, or believing in the President's and Secretary's mode of excluding small notes, by refusing to receive them in payment of taxes and duties. The only effect of that measure will be to restrict the circulation of the pet banks and give the small bills of the others the whole market. A depreciated currency always usurps the circulation. Whenever a bank is in doubtful credit, you see no other bills. Every one passes them off as rapidly as possible.

At this moment we have nothing of peculiar interest. Mr. Polk's bill for conducting the collection of revenue through the State banks will certainly not pass. I doubt if it will get through the House.

We have rumors of a *war*-message against France ; but my information is that the President has been persuaded out of it. He no doubt did entertain such an intention.

Very respectfully, your most ob't ser't,

R. H. WILDE.

With this letter came a speech delivered by Mr. Wilde, March 18, 1834, "On the Reasons of the Secretary of the Treasury for the Removal of the Deposits," from which a few extracts are given. He commenced by a touching allusion to the death of the Hon. Thomas T. Bouldin, of Virginia, who, while in the act of addressing the House on the Deposit question, fell and expired in his place on the 11th February, 1834.

Mr. WILDE said :—The lips that were opened to discuss this subject, when it was last before the House for debate, were now closed forever in the silence of the grave. The patriot fell, where he had ever stood, foremost in the van, warring for the law and the Constitution. It is in life as in battle. Our companions drop by our side. We close the ranks and hurry on. The eagerness of the strife leaves no time for praise or sorrow beyond the brief, blunt terms of a soldier's eulogy. We have lost an honest and gallant comrade. Peace be to his ashes ! Honor to his memory ! Who would have thought that so soon—almost before his corpse was cold—it would have been strode over with impious and indecent haste to attack the best part of that constitutional liberty which had always been his idol,—freedom of debate ? And under what circumstances

was URGENCY decreed? *Voted*, he should have said: it is still *voted*. We have not yet come to the simple machine, a proclamation:—"Silence is commanded, on pain of imprisonment." He meant to state the historic facts. If the "old Roman's" course is to be sustained by Carthaginian strategy, the reproach of "Punic faith" must be borne by the centurion and the legionaries.

After reviewing the situation of the country at different periods, as influenced by the currency and by the action of local banks, showing great losses to the public, Mr. Wilde proceeded:—

Such was the state of things in 1816, before the present Bank of the United States went into operation. How has it been since, according to evidence equally authentic?

For ten years preceding 1830, the revenue of the United States was collected through three hundred and forty-three custom-houses, forty-two land-offices, eight thousand four hundred post-offices, one hundred and thirty-four receivers of internal revenue, thirty-seven marshals, and thirty-three clerks. The aggregate of persons employed in the collection was computed by the committee at nine thousand. The amount received during that period was \$230,068,855. This sum was collected at various points of this widely-extended country. It has been disbursed at other points, thousands of miles distant; and yet it has been collected, remitted, and disbursed without the loss of a single dollar.

The loss sustained by the United States from broken banks alone between 1814 and 1819 exceeds a million. The receipts into the Treasury during these five years were \$198,000,000. Of this amount, \$68,000,000 were received from loans and Treasury notes, and \$93,000,000 from customs, upon none of which was there any loss. The whole amount of loss then accrued on the collection of \$36,000,000, received from the public lands, internal revenue, direct taxes, and incidental receipts. We lost, then, during these ten years, one-thirty-sixth part of the revenue accruing from these sources.

This, however, forms but a very small item in the loss of the Government. If all that was lost by the extravagant price paid for loans, by the sale of Treasury notes at a discount, and by the premium paid on exchanges, or the interest allowed for advances of current money, were taken into the account, the sum would be swelled to many millions.

Still, the loss to the Government sinks into utter insignificance compared with that to individuals. During the years '15 and '16, the exchange between our different cities varied from 5 to 25 per cent., the ordinary premium for specie being from 10 to 20 per cent. The amount of our domestic exchanges may even then be estimated at not less than \$200,000,000 per annum: they are now much more. If we estimate the difference of exchange paid on these \$200,000,000 at only 5 per cent. on an average, the industrious classes were taxed annually ten millions, for the benefit of banks and brokers, on their domestic exchanges!

The excellence of the Bank of the United States, as latterly conducted, consists in the facility and stability it has given to domestic exchanges. The transfer of funds from place to place, for the purposes of the public expenditure, are as nothing compared with those demanded by the exigencies of commerce. The burden of transmitting the public money under a system of unequal exchanges would seem to be much less than

the advantage, in the shape of premiums, to be derived from such exchanges on the remittances of commerce. But the people would have just right to complain if the institution sacrificed their interests to its own, by levying a tax on their exchanges beyond the fair equivalent for interest, trouble, postage, and insurance. Under a judicious course of policy, therefore, domestic exchange has latterly been equalized. The remittances of commerce are made subservient to the transmission of the public funds; the deposits of the public funds have, in their turn, furnished the means of extending greater facilities to commerce; while the public, in the sum originally paid and in the duties subsequently performed by the bank, received ample compensation for the privileges bestowed on it.

The loss sustained on their domestic exchanges by the citizens of the United States, in the years 1814, '15, '16, '17, and '18, though the greatest, is far from being the only one. Between 1811 and 1830, one hundred and sixty-five banks failed,—the greater part of them between 1811 and 1820. The loss arising from that cause cannot be less than \$10,000,000 or \$15,000,000.

But, it will be said, the state of the banks now is not like their state in 1816. No! their present condition is even *worse*.

In 1816, two hundred and forty-six State banks, with a paper circulation of sixty-eight millions, had nineteen millions of specie. In 1832, actual returns from two hundred and eighty State banks show about forty millions of paper for eight millions of specie; and, calculating the remaining one hundred and seventy banks on the same basis, the whole four hundred and fifty banks had a circulation of about sixty-four millions for twelve millions of specie.

The issues of the State banks in 1816 were only about three and a half for one; in 1822, they were upward of five for one; and in 1833, they were at least six, and most probably seven, for one, and so, no doubt, continue at the present moment.

Mr. Wilde analyzed the relations of commerce and the convertibility of bank-paper into coin, the only standard of value recognised throughout the world. A passage is here selected for the beauty of its comparison:—

The *danger* arising from the vast influence of the Bank of the United States has been much insisted on. The answer to the whole of this class of arguments is obvious. All power, strength, passion, action, energy, and capacity are, in one sense, dangerous,—even the thirst of knowledge, which ruined our first parents. What then? Must we give up printing because the press is licentious? gunpowder, because magazines explode? and machines, because men are sometimes killed by them? Must we return to ignorance, barbarism, and imbecility, because knowledge, civilization, and enterprise are dangerous?

This elaborate effort of Mr. Wilde, equal to fifty pages of the usual pamphlet size, exhibits deep research and patient investigation. A further extract is given as a proof:—

Of the remaining modes suggested for collecting and disbursing the public moneys, the most pernicious experiment that could possibly be attempted is that of creating a bank owned and controlled wholly by the

Government. Such a bank, besides being open to all the objections of the present one, has numerous disadvantages. If it do not issue paper, it will be impossible to collect the revenue in a uniform medium. If it do, you have at once all the evils and temptations of a Government paper. The issue of paper money, directly, or through banks controlled by Government, has been tried by various countries, and always with the same success. Depreciation and bankruptcy have always been the issue; and every project of this description, disguise it as you will, is only a repetition of the South Sea bubble, the Mississippi Company and bank of Law, the assignats of France, and our own Continental currency.

A very brief sketch of the paper money of other nations and our own may not be without its interest. France, during her revolution, issued 45,579 millions of paper money, of which 12,744 millions were in some way or other discharged; the remaining 32,835 millions, of the nominal value of about 6,260 millions of dollars, remained as waste paper in the holders' hands. During our Revolutionary war, our Congress issued 860,000,000 of Continental bills of credit, which depreciated to one thousand for one, and finally became utterly worthless. The amount of issues by the States is unknown. Various States of this Union have attempted to establish State banks, which were solely the property of the State,—many of which have failed, and generally after gross frauds and abuses.

Catharine II. issued a paper currency for Russia: the moderation of its issues kept it for some time at par; but in 1814, four rubles in paper were worth only one in silver.

The Bank of Copenhagen was founded in 1736. Nine years afterward, the Government freed it from the obligation of paying its notes in full. In 1773, the king, thinking, probably, the privilege of issuing an inconvertible currency too valuable for a private corporation, took the bank into his own hands. In October, 1813, a dollar in silver was worth sixteen dollars in paper.

The currency of France in 1716 was specie, and amounted to about eight hundred millions of livres, or 190,000,000 of dollars. Law's bank, established a little before, raised the currency to about 195,000,000 of dollars. In January, 1719, "the Government"—that is, the regent, in the name of the king—took possession of the bank. In May, 1720, the bank had in circulation 2,235,000,000 of livres, or about 530,000,000 of dollars. On the 20th May, 9000 livres in paper would purchase only 82½ in silver; and in October they became of no value whatever. Justice to Law requires it to be said that he was not responsible for the monstrous abuse of his project. His ideas (developed in his work on money and trade) are not those on which the French Government acted. It was the conversion of Law's bank into the "*Banque Royale*," and the change made in its issues, that did the mischief. Law remonstrated in vain. Power prevailed over argument, as it always does; and, by a singular perversion of justice, popular prejudice (from which even the President does not seem to be exempt) attributes to the erroneous principles of Law the evils arising from an arbitrary exercise of royal authority.*

The Government of Brazil established a bank. The issues were virtually under the control of the State. Its paper depreciated more than one-half, and it was closed by a commission to wind up its affairs and issue a new paper in place of the old. About two years since, 6400

* See Law on Money and Trade, and Edinburgh Encyc.

milreas in coin were worth, of the new paper emission, from 11,000 to 12,000 milreas; and, at the same time, so base was the copper coin, (the only species in circulation,) that this depreciated paper bore a premium of two per cent. in copper. Yet at that moment there was no deficiency of the precious metals in Brazil. They were exported, as usual, and what remained in the country were hoarded.

The Austrian paper money originated with Maria Theresa. In 1810, a florin in silver was worth thirteen florins in paper. In 1811, the Government called in the existing paper money and exchanged it, at one-fifth of its nominal value, for a new paper money; and, in 1812, eight florins of the new paper were worth only one in silver. Corrupting the currency by the issue of a Government paper money is the desperate expedient which has succeeded to the ancient practice of debasing the coin. In effect it is the same.

The method adopted by those powers in Europe whose territories are most extensive for the remittance of the public money from place to place, as its expenditures may require, is not without its use and interest in this inquiry. I have obtained, from such sources as I could depend on, information respecting the practice of France and Russia in this respect. The circulation of the bank-notes of the Bank of France, I understand, is pretty much confined to Paris and the large towns. There are receivers-general in the different departments, by whom collections and disbursements are made, and who sometimes give drafts on each other, or on the royal treasury, "*bon*" for so much. But it is frequently requisite to transport specie from place to place for the purposes of the Government. So it is in Russia,—though the paper rubles of the Government are remitted in packets by the mail, or by couriers. This mode of transferring public funds is to the Bank of the United States what a raft is to a steamboat.

The increase of patronage, the corrupting power, the danger of frauds, the mismanagement, negligence, abuses, and losses of a Government bank need not be insisted on. I should regard a bank established solely by the Government with as much horror as an established Church.

If the most pernicious experiment that could be devised is that of a Government bank, the least plausible is that of attempting to collect the revenue, maintain the circulation, transport the funds, discharge the debts, and equalize the exchanges of the United States through the instrumentality of the State banks. This leads me naturally to a consideration of the main topic. The Treasury of the United States has been emptied into the vaults of "certain State banks," by order of the President or Secretary,—for the present, I care not which,—and the committee recommend that it should remain there. We are now to discuss that measure and the reasons assigned for it. Various official and unofficial documents respecting it have been laid before us or published. The measure itself has been canvassed throughout the country with an interest and eagerness proportioned to its importance. Part of this influence has probably arisen from the influence of party politics. So far as it has, few men are more exempt from it than myself. The older members of this House, at least, understand what have at all times been my relations with all parties. To me the President is nothing, and his successor is nothing, and his secretaries, past, present, and to come, are nothing; but the people of the United States are much, my own immediate constituents more, and a Constitutional Government of liberty and

law every thing. It is not, therefore, as a mere party struggle that I propose to regard this measure, but as a great question of currency, finance, and constitutional power,—the rights of the executive, and the duties of the legislative, department.

As Mr. Wilde acquired his fame mostly as a scholar, and as his productions are always agreeable, not only for matter logically arranged, but for felicity of style, the author feels justified in swelling his quotations by introducing extracts from the speech of Mr. Wilde on the Tariff in 1832, in which he describes the prominent men whom he found in the House of Representatives when he first became a member of that body in 1816. It has been much admired for its chaste and graphic delineations of character. After noticing the condition of the country at the close of the war, and the systems of policy maintained under different administrations, influenced by the master-minds in Congress, Mr. Wilde thus used his pencil:—

It was under such circumstances that the Fourteenth Congress assembled. At that time I had the honor to be a member of this House. It was an honor *then*. What it is *now* I shall not say. It is what the Twenty-Second Congress have been pleased to make it. I have neither time nor strength nor ability to speak of the legislators of that day as they deserve, nor is this the fit occasion. Yet the coldest or most careless nature cannot recur to such associates without some touch of generous feeling, which, in quicker spirits, would kindle into high and almost holy enthusiasm.

LOWNDES.—Pre-eminent—yet not more proudly than humbly pre-eminent—among them was a gentleman from South Carolina, now no more,—the purest, the calmest, the most philosophical, of our country's modern statesmen. One no less remarkable for gentleness of manners and kindness of heart than for that passionless, unclouded intellect which rendered him deserving of the praise—if ever man deserved it—of merely standing by and letting reason argue for him. The true patriot, incapable of all selfish ambition, who shunned office and distinction, yet served his country faithfully, because he loved her. He I mean who consecrated by his example the noble precept, so entirely his own, that the first station in the Republic was neither to be sought after nor declined,—a sentiment so just and so happily expressed that it continues to be repeated, because it cannot be improved.

PINKNEY.—There was also a gentleman from Maryland, whose ashes slumber in your cemetery. It is not long since I stood by his tomb, and recalled him as he was then, in all the pride and power of his genius. Among the first of his countrymen and contemporaries as a jurist and statesman, first as an orator, he was, if not truly eloquent, the prince of rhetoricians. Nor did the soundness of his logic suffer any thing by a comparison with the richness and classical purity of the language in which he copiously poured forth those figurative illustrations of his argument which enforced while they adorned it. But let others pronounce his eulogy. I must not. I feel as if his mighty spirit still haunted the

scene of its triumphs, and, when I dared to wrong them, indignantly rebuked me.

These names have become historical. There were others of whom it is more difficult to speak, because yet within the reach of praise or envy. For one who was or aspired to be a politician, it would be prudent—perhaps wise—to avoid all mention of these men. Their acts, their words, their thoughts, their very looks, have become subjects of party controversy. But he whose ambition is of a higher or a lower order has no need of such reserve. Talent is of no party exclusively, nor is justice.

RANDOLPH.—Among them, but not of them, in the fearful and solitary sublimity of genius, stood a gentleman from Virginia, whom it were superfluous to designate,—whose speeches were universally read, whose satire was universally feared. Upon whose accents did this habitually listless and unlistening House hang so frequently with rapt attention? Whose fame was identified with that body for so long a period? Who was a more dexterous debater? a ripper scholar? better versed in the politics of our own county, or deeper read in the history of others? Above all, who was more thoroughly imbued with the idiom of the English language, more completely master of its strength and beauty and delicacy, or more capable of breathing thoughts of flame in words of magic and tones of silver?

CALHOUN.—There was also a son of South Carolina, still in the service of the Republic, then undoubtedly the most influential member of this House. With a genius eminently metaphysical, he applied to politics his habits of analysis, abstraction, and condensation, and thus gave to the problems of government something of that grandeur which the higher mathematics have borrowed from astronomy. The wings of his mind were rapid but capricious, and there were times when the light which flashed from them as they passed glanced, like a mirror in the sun, only to dazzle the beholder. Engrossed with his subject, careless of his words, his loftiest flights of eloquence were sometimes followed by colloquial or provincial barbarisms. But, though often incorrect, he was always fascinating. Language with him was merely the scaffolding of thought, employed to raise a dome which, like Angelo's, he suspended in the heavens.

CLAY.—It is equally impossible to forget or to omit a gentleman from Kentucky, whom party has since made the fruitful topic of unmeasured panegyric and detraction. Of sanguine temperament and impetuous character, his declamation was impassioned, his retorts acrimonious. Deficient in refinement rather than in strength, his style was less elegant and correct than animated and impressive. But it swept away your feelings with it like a mountain-torrent, and the force of the stream left you little leisure to remark upon its clearness. His estimate of human nature was probably not very high. It may be that his past associations had not tended to exalt it. Unhappily, it is perhaps more likely to have been lowered than raised by his subsequent experience. Yet then, and ever since, except when that imprudence so natural to genius prevailed over his better judgment, he had generally the good sense or good taste to adopt a lofty tone of sentiment, whether he spoke of measures or of men, of friend or adversary. On many occasions he was noble and captivating. One I can never forget. It was the fine burst of indignant eloquence with which he replied to the taunting question, What have we gained by the war?

WEBSTER.—Nor may I pass over in silence a Representative from New Hampshire, who has almost obliterated all memory of that distinction by the superior fame he has attained as a Senator from Massachusetts. Though then but in the bud of his political life, and hardly conscious perhaps of his own extraordinary powers, he gave promise of the greatness he has since achieved. The same vigor of thought; the same form of expression; the short sentences; the calm, cold, collected manner; the air of solemn dignity; the deep, sepulchral, unimpassioned voice,—all have been developed only, not changed, even to the intense bitterness of his frigid irony. The piercing coldness of his sarcasms was indeed peculiar to him: they seemed to be emanations from the spirit of the Icy Ocean. Nothing could be at once so novel and so powerful: it was frozen mercury becoming as caustic as red-hot iron.

These were the leading portraits. A few other gentlemen were referred to in brief, complimentary terms, among whom were Mr. Gaston, of North Carolina, and Mr. Forsyth, a fellow-townsmen of Mr. Wilde.

At the risk of being considered tedious, the author here inserts, for the benefit of his young brethren of the profession, a page or two concerning the early life of Mr. Pinkney, who at the period of his death, and for a long time previous, was the acknowledged head of the bar in the United States. Mr. Wilde conceded to him that rank. While in his nineteenth year, Mr. Pinkney became the *protégé* of Judge Chase, and the particulars are thus given in a national work:*

In the year 1783, an incident occurred that, both on account of the importance of its consequences and the strong light in which it displays the warmth of feeling and keen penetration of Mr. Chase, ought not to be omitted.

Being in Baltimore, he was induced to attend, as an auditor, the meeting of a debating-club composed chiefly of students and very young men. Among the speakers there was one whose excellent style of delivery, firm voice, and strength of argument particularly caught his attention. He spoke to the youth after the debate had closed, and found he was from Annapolis, and had been placed with a physician and apothecary in Baltimore, where he compounded medicines and expected to receive instruction in pharmacy and medical practice. Mr. Chase advised him to study law, and encouraged him to hope for success in the legal profession. To this the youth replied that he could not afford to go through the preparatory course of study, being entirely without means, and having no dependence except upon his own immediate exertions. Mr. Chase, with the sympathy of kindred genius, felt for the friendless youth an instantaneous regard, and, perceiving at once the indication of great native powers, resolved that a mind so highly gifted should not languish in obscurity: he therefore invited the young man to the benefit of his library, his instruction, and

* Sanderson's Biography of the Signers, vol. ix. p. 211.

his table, and urged upon him the immediate acceptance of the offer so earnestly, that it was promptly and gladly accepted, and the fortunate youth sent his trunk by a sloop, while he went on foot himself, to Annapolis, where he became not only established in the office, but domesticated in the family, of his generous benefactor.

This young man was William Pinkney, afterward the eloquent and learned Attorney-General of the United States, minister successively at the courts of London, Naples, and St. Petersburg, the most distinguished lawyer in America, and, until the blight of party dissensions fell upon their attachments, the ardent and grateful friend of Mr. Chase.

The state of dependence which the young Pinkney was obliged for a while to endure subjected him to many mortifications, arising from the pride and the prejudices of his associates, who thought themselves more respectable because more fortunate; but, could they or he have then looked forward to the brilliant destiny that awaited him, their pride and his distress would equally have vanished. Under the pressure of such feelings as his peculiar relation toward Mr. Chase excited, he wrote to him the following letter:—

"Never, sir, in writing to any person, did I feel myself so much at a loss for a subject. I wish to say something worthy of your attention; but the eagerness of that wish damps my abilities for doing it. But there is one point upon which I cannot but enlarge: it touches me so sensibly that I am filled with the deepest regret every time I reflect on it.

"The greater part of the students belonging to the law seem to be my enemies: for what reason, Heaven knows! To some I may have given cause; to others, I am certain, none. You, sir, with all your discernment, can hardly conceive the uneasiness of my situation, destitute, friendless, and unhappy, opposed by all, supported by none, troubled with a thousand domestic vexations! Oh, be my patron and my friend! Assist me to struggle through my difficulties, and kindly smooth the rugged path before me.

"You, give me leave to say, sir, know what it is to climb the steepy road to eminence; your merit encountered many an adverse shock, but you surmounted all; my poverty and singular backwardness of genius are too powerful obstacles for me to combat. To you, then, I look up as my guardian genius, my protector, my prop: do not let me be deceived, do not let me be disappointed. Pardon this incoherent scrawl. I have been lately extremely ill, and am but just recovering: weakness prevents me from proceeding further than to wish you uninterrupted health, together with

"The soul's calm sunshine, and the heartfelt joy."

This letter was written while Mr. Chase was in England, to which country he had gone at the request and on behalf of the State of Maryland.

Surely, friendless, unassisted youth, animated by the right desire, have an example, in the difficulties which Mr. Pinkney overcame, to stimulate their hopes and exertions to conquer. That it may possibly produce such effect is the sole reason why the extract is here.

The writings of Mr. Wilde were so abundant and various on legal, political, and literary subjects, that no attempt will be made

even to enumerate them. They consisted chiefly of arguments, speeches, essays, articles for the press, and fragments of poetry, most of them inaccessible to the author. The celebrated lines, "My Life is like the Summer Rose," which attracted the praise of Lord Byron,* were published about the year 1820. The language does not afford a purer gem.

BY RICHARD HENRY WILDE.

My life is like the summer rose,
That opens to the morning sky,
And, ere the shades of evening close,
Is scatter'd on the ground to die:
Yet on that rose's humble bed
The softest dews of Night are shed,
As though she wept such waste to see;
But none shall drop one tear for me!

My life is like the autumn leaf,
Which trembles in the moon's pale ray:
Its hold is frail, its date is brief,
Restless,—and soon to pass away:
Yet when that leaf shall fall and fade,
The parent tree will mourn its shade,
The wind bemoan the leafless tree;
But none shall breathe a sigh for me.

My life is like the print which feet
Have left on Tampa's desert strand:
Soon as the rising tide shall beat,
Their trace will vanish from the sand:
Yet, as if grieving to efface
All vestige of the human race,
On that lone shore loud moans the sea;
But none shall thus lament for me.

From the "Ode to Ease," a sort of confession of the heart, rambling with gentle pathos after the delusions of life are verified, the author quotes briefly, as another specimen of Mr. Wilde's poetic ability:—

I choose thee, EASE! and now for me
No heart shall ever fondly swell,
No voice of soothing melody
Awake the music-breathing shell;
Nor tongue of rapturous harmony
Its love in faltering accents tell;
Nor flushing cheek, nor languid eye,
Nor sportive smile, nor artless sigh,
Confess affection all as well.
No snowy bosom's fall and rise
Shall e'er again enchant my eyes;
No melting lips, profuse of bliss,
Shall ever greet me with a kiss;
Nor balmy breath pour in mine ear
The trifles love delights to hear;
But living loveless, hopeless, I
Unmourned and unloved must die.

* On the authority of the late William H. Torrance, Esq.

Enough has been quoted from Mr. Wilde's pen, both in prose and in verse, to establish his rank in the world of letters, without drawing upon his "Conjectures and Researches concerning the Love, Madness, and Imprisonment of Torquato Tasso," a work which occupied several years in the preparation. While the author will aim at justice, though prepossessed, as he admits himself to be, with the merits of his subject, he still feels the obligation, as it is no less his right, to examine with all candor this performance of Mr. Wilde, who has dug from the rubbish of centuries many a shining particle of Italian lore, about as interesting to the bulk of mankind as the *agonies* of a naturalist over the geometrical skill and gossamer fabrics of a very wise but a very unpopular insect. Ideas borrowed from this building-artist have led many architects besides Sir Christopher Wren to combine beauty and strength in the edifices which immortalized their names. The comparison, therefore, is not so disrespectful as might at first appear. While St. Peter's may have been fashioned in part from suggestions conveyed by a spider's ingenuity, yet Michael Angelo is not the less honored for applying wisdom from so humble a source to such magnificent results. Poor Tasso, in his prison, wove beautiful chaplets and ingenious webs, with which Mr. Wilde has reared a temple of gorgeous finishing, just as beautiful to contemplate as if it rested on a foundation more solid than a mad poet! But the opening pages of Mr. Wilde shall speak the matter at issue:—

There is scarcely any poet whose life excites a more profound and melancholy interest than that of TORQUATO TASSO.

His short and brilliant career of glory captivated the imagination, while the heart is deeply affected by his subsequent misfortunes. Greater fame and greater misery have seldom been the lot of man, and a few brief years sufficed for each extreme.

An exile even in his boyhood, the proscription and confiscation suffered by his father deprived him of honor and patrimony. Honor and love, and the favor of princes, and enthusiastic praise, dazzled his youth. Envy, malice, and treachery, tedious imprisonment and imputed madness, insult, poverty, and persecution, clouded his manhood. The evening of his days was saddened by a troubled spirit, want, sickness, bitter memories, and deluded hopes; and, when at length a transient gleam of sunshine fell upon his prospects, DEATH substituted the IMMORTAL for the LAUREL crown.

Mystery adds its fascination to his story. The causes of his imprisonment are hidden in obscurity: it is still disputed whether he was insane or not.

A rumor of daring love was common in his age, and has come down to ours; but it is contradicted by the most industrious, and, in some respects, the most accurate, though perhaps the least candid, of his biographers.

Still, unquestioned facts enough remain to rouse our curiosity. Courtlly

intrigues, a friend's treachery, intercepted letters, false keys, a quarrel and a combat, are universally admitted. The origin of this strife, the secrets revealed, the contents of the papers so unjustifiably examined, have exercised and often baffled literary ingenuity, which, still untired, because unsatisfied, returns to its task with fresh ardor. Some connection between the misfortunes of the poet and the strange occurrences faintly whispered by his contemporaries or obscurely hinted by himself is naturally suspected; and the severity of his punishment—if punishment it was—implies, one would suppose, no ordinary crime. We can hardly persuade ourselves that a custody so rigorous was intended merely for the cure of a mental malady, and the works he composed during its continuance are scarcely reconcilable with madness; yet it is difficult to read his letters and believe him always sane.

The tyranny of ALPHONSO, indeed, is ill disguised, even by his most earnest apologist; but of the poet's own defence we have merely a mutilated copy. Few points of literary history, therefore, are more interesting or more obscure than the LOVE, the MADNESS, and the IMPRISONMENT of Tasso.

Various conjectures respecting them have been offered,—none, perhaps, entirely satisfactory. The value of those which follow will depend on their probability, and that, again, on the number of incidents collected and compared, and the candor and sagacity employed in their collation. To draw as far as possible from his own writings whatever light they may afford concerning the most doubtful events of his life is the object of this essay.

After some half-dozen intervening pages, we have the substratum of the whole work:—

According to MANSO, it was said and believed in the lifetime of the poet that he sung the charms of *three* ladies, all of the court of Ferrara. He affected to be captivated with the whole three, and under the name of LEONORA, common to them all, attempted to conceal *which* was the real object of his passion. It was the opinion of the day that the Princess LEONORA of Este was the first, the Countess LEONORA SAN VITALE the second, and a lady of the DUCHESS of FERRARA the third. To the latter, MANSO continues, was addressed the *canzone* of TASSO beginning,—

“Oh, chosen with the Graces and the Loves!”

SERASSI, whose book was dedicated to a princess of the House of ESTE, though in some other particulars he praises MANSO and relies on his authority, seems intent upon destroying it in every thing that relates to the supposed loves of TASSO and LEONORA.

With regard to this beautiful *canzone*, he says he possesses a copy of it in the handwriting of the time, inscribed to a young lady of the SAN VITALE whose name was OLYMPIA. This fact he considers fatal to the story of the three LEONORAS, and, in stating it, apparently imagined he had disposed of the question. The proof, however, is by no means conclusive. His copy is dated in 1577; the *canzone* was certainly written before or during the year 1576.

The controversy is here presented in which Mr. Wilde embarks

as champion to establish the fact, by learned and patient investigation, which of the three ladies Tasso preferred in his song:—

“Three high-born dames it was my lot to see,
Not all alike in beauty, yet so fair,
And so akin in act, and look, and air,
That Nature seem'd to say, ‘SISTERS ARE WE!’
I praised them all,—but one of all the three
So charm'd me, that I loved her, and became
Her bard, and sung my passion and her name
Till to the stars they soared past rivalry.
Her only I adored; and if my gaze
Was turn'd elsewhere, it was but to admire
Of her high beauty some far-scatter'd rays,
And worship her in idols,—fond desire,
False incense hid; yet I repent my praise,
As rank idolatry 'gainst LOVE's true fire.”

The mind of the reader could be refreshed by still more copious extracts, showing the industry of Mr. Wilde in the examination of the best libraries and the largest collections of manuscripts in Italy, in order to render the issue still more *complex* which of the fair rivals was entitled to the honor of Tasso's devotion. After all, nothing is settled,—nothing positive but “Conjectures,” nothing evident but “Researches,” of which the title-page gives honest warning. Still, the uncertainty is no discredit to Mr. Wilde. He made the best of his scattered materials. The dust of two centuries and a half had gathered on the memorials with which Tasso was connected. He was born at Sorrento, March 11, 1544, and died in the monastery of St. Onfrio, April 25, 1595, on the very day which had been previously selected and prepared in great pomp for his coronation with laurel conferred by the Pope and voted by the world of letters as a reward of his transcendent genius. Death at such a moment was but a transition from glory to glory, if the idea may be indulged that the spiritual life of the poet was equal to the graces of his intellect. A character thus moulded may justly claim the homage of mankind, not only for its splendor, but for the sufferings which hallowed it. No rudeness or levity shall desecrate the shrine at which so many sons of genius have knelt. If no other reason could inspire tenderness, no other thought awaken sympathy, the conviction that RICHARD HENRY WILDE loved the memory of Tasso, and expressed his reverence in strains of impassioned purity, would be sufficient to forbear criticism on the merits of this Georgia-Italian compound of poetic raptures. The commentator has adorned the text beyond its capacity, and has eclipsed all his predecessors in delicate arguments to render Tasso a breathing verity in the souls of men. With pro-

found respect for both, let the eulogy be declared that TASSO and WILDE were of kindred tastes, and should exist together on the roll of Fame.

Having thus attempted to poise his judgment fairly, and to award justice to the gifted man on whose tomb he now leans with sad and deferential feelings, the author presumes to announce an opinion which he is not conscious of borrowing; and he has, therefore, to answer for its temerity.

The mission to which Mr. Wilde addressed his faculties and gave years of toil in Europe was not in harmony with his relative duties to mankind and with that position which his eminent talents and finished cultivation had secured from the world. He was qualified for extensive practical usefulness as a jurist, scholar, and statesman. That he should retire for a short period from his own country for relaxation amid the cities, establishments, and relics of the Old World was not surprising or extraordinary. All men of liberal views would do the same, other considerations permitting. But to remain seven years, with no engagements more solid than glancing over antiquated documents from which no principles or systems could be educed beneficial to mankind, was a sacrifice of himself much regretted by many of his partial countrymen. It was, indeed, a transition from the open air, where mountain and lake and forest and river and rich harvests and fragrant verdure were ever lending variety to the landscape and a sweet moral tone to the imagination,—it was a step from these purifying elements of nature to the gilded halls of luxury, where exclusiveness and mock civilities prevailed, and where music and laughter and wine and much frivolous chat constituted the round of enjoyments with which he was more or less identified. True, there was poetry in all this,—too much of it. There was delight to the senses, but mildew to the heart. The voluptuary, the man of fashion, the idler, were gratified; but the moral hero, the public benefactor, the man of enterprise, and the scholar of a just ambition, desirous to leave a record of popular utility, would turn with generous self-denial from such enchantments.

No reproach on the memory of Mr. Wilde is intended by this picture. Tasso, Byron, and other men of sublime gifts yielded to the attraction. The error, if any, was sanctified by the rare companionship. We know that genius has moods of its own, rarely prudent, and ever prone to extremes. But that a dozen volumes or more should be written by the biographers of a poet, mostly filled with speculations on the good fortune of one of "three high-

born dames" to be the ideal of his muse, is an expenditure of time and abilities utterly disproportioned to the intrinsic value of the subject. The task, with whatever success performed by Mr. Wilde, was below the merit which should have sustained itself in a better field,—at the forum, in the walks of political economy, in commerce, in constitutional law, or in the analysis of government, all of which admitted the classic beauties of style. The love of Tasso is childish, his madness excites sympathy, and his imprisonment raises a question whether it was caused by the rage of a tyrant or the pity of a friend. The final consequence is logically deduced. There have been examples besides that of Tasso where love induced madness, and a prison was the remedy, the preservation of the individual; yet who ever deemed the catastrophe of such vital concern as to devote several of the best years of a truly eminent life to the investigation, to the sentimental details, to the fantasies of insanity, and that, too, not for the benefit of medical jurisprudence?

The attack having been made, the vindication follows by the same hand,—a cheerful defence, a grateful reply to seeming objections. In the case of Mr. Wilde there was much to extenuate, if not wholly justify, his self-expatriation and the indulgence of his literary taste in a channel whose crystal current bore him imperceptibly into "dream-land," where poetic natures love to dwell amid creations of their own, society of their own forming, and delights peculiar to themselves. He had known hardship in his youth; his moral courage and intellectual superiority had opened a path to renown. He had figured in Congress as an acknowledged luminary, without a rival in elegance of style and felicity of imagination under the control of a sound, dignified judgment. The press had teemed with compliments to his genius at home and abroad. His society was courted in the leading circles of fashion and intelligence, and he was the most finished gentleman in them all. He was courtly in address, yet engaging and familiar with his friends. After the defeat of the ticket for Congress on which he was nominated in 1834, his spirit chafed under a sense of injustice. He was too conspicuous in public estimation to be thus neglected at the ballot-box without becoming an object of remark in contrast with his former triumphs. For the first time he realized desertion,—loneliness. His sensitive mind turned upon itself for support.

It may be asked, perhaps doubtfully, what consideration bound him to a further struggle with the rough gales of life. Had he

not given abundant proofs of capacity of the highest order? What problem had he yet to solve to procure the recognition of his genius and learning? He had toiled ambitiously and successfully for improvement; his fame was established, and he was remitted to private life. Under these circumstances, where was the impropriety of his European tour and residence? Was it not commendable? Mr. Wilde had a relish for Italian literature; his soul had been touched by the song of Italian bards, and by the richness and beauty of their language. He resolved to drink at the same fountain. Easy in his fortune, his mind relieved from public cares and domestic anxieties, he applied himself, with that gentle industry and soothing leisure which his situation afforded, to master the depths of a classic sea, of which Italy was the enchanted basin, in his reveries. He selected Florence as his head-quarters and Tasso as his theme. The result is before the world.

The dedication of his volumes to John W. Wilde, Esq., is alike honorable to the two brothers. It is dated Florence, 5th November, 1840:—

MY DEAR BROTHER:—An affection like ours rarely shows itself in words; and, if I now allow it utterance, it is rather in homage to truth than in compliment to you. If I knew any one more worthy of my esteem and regard than yourself, I might spare you the pain of a dedication; but in all that tries the heart you only have always withstood the proof, and to you my first work must be inscribed, that flattery or falsehood may not stain the inscription.

A more beautiful and tender piece of composition than this fraternal tribute is not to be found anywhere. It is incorporated in this memoir as an act of justice and as an ornament. The refined taste of Mr. Wilde and the harmony of his diction appear in every line from his pen. His work on Tasso evinces great labor and erudition. The authorities referred to in his notes are numerous, and many of them rare. The translations show his proficiency in the Italian language. Taken as a mere literary performance, it is sufficient to rank Mr. Wilde among the ripest *belles-lettres* scholars of the age. True, there is much that is extravagant in feeling, and much that is imbued with romance: still, the gratification is not the less pure. Ours would be a hard condition, a barren world, if we poor mortals had to see and endure things divested of the ideal drapery of life. We should sink under the burden without any angel to lift us up. The illusion is sweet; we trust it, though we know it to be an illusion. It is one of the angels that constantly fill the air, ministering to all who are in trouble.

Instead of blame or indifference, let us award to the scholars and painters of lively impressions—of wild fancies, if you please—the gratitude we owe them for the rich feasting we have enjoyed at their hands. In this relation Mr. Wilde is a benefactor to his fellow-man. There is no evidence that in his retirement, or in the prosecution of his researches respecting Tasso, Dante, or other subjects in Italy, he departed in the least degree from that level which commanded the best society of Europe. His presence was felt and gracefully acknowledged wherever his lot was cast.

Mr. Wilde possessed very tender sensibilities and a high personal honor which permitted no liberties with his character. He was careful to inflict no wrong on others, and expected the same treatment in return. His principles and conduct were so well understood in this respect, his demeanor so courteous, that perhaps he had no single occasion to adjust for himself under the code of honor, which he fully recognised.

That Mr. Wilde valued his political reputation, and would suffer no stain to affix itself on his rectitude of purpose, is shown by the following letter, which he penned on his voyage to Europe. Even the ship "Westminster," in which he sailed, was significant of great judges, jurists, advocates, scholars, and other men of renown, both dead and living, in the annals of Great Britain. The letter is copied from the *National Intelligencer*, with the remarks of its editors vindicating Mr. Wilde:—

The subjoined letter interested us in the perusal more because of the information which it conveys of the distinguished and estimable writer of it, Mr. WILDE, having gone abroad, than from its denial of a charge which no man who knows Mr. WILDE would believe for a moment to be true:—

PACKET-SHIP WESTMINSTER, OFF SANDY HOOK, 1st June, 1835.

TO THE EDITOR OF THE NEW YORK STAR.

SIR:—My attention has been called to an article in a late *Globe* respecting Mr. Speaker Bell, which until this morning I have not had leisure to read. The obvious import of a passage in it is to charge concert between that gentlemen and myself in the election which elevated him to the chair of the House of Representatives. "Jockeying" is the word used. If it was intended to convey to the public, so far as the influence of that gazette extends, the impression that there were any secret or unfair practices between anybody and myself, the charge is utterly unfounded. In truth, Mr. Bell and I had no understanding of any kind, and never, directly or indirectly, concerted any thing touching the election.

Were I not about quitting my own country and going for a while where the *Globe*, as the official paper of the President and his Cabinet, has perhaps more authority than among those of my fellow-citizens whose good

opinion is desirable to me, the imputation in question would scarce be worth repelling. This consideration, and the fact that another is interested and entitled to my testimony, has prevailed over my reluctance to write any thing for the newspapers,—a reluctance sufficiently well known to have stimulated in some degree the unsuccessful attacks heretofore made on me.

A very curious rule is gaining ground on this subject. Some paper justified itself not long ago for publishing a disreputable charge of literary larceny by saying the editor at the time believed it to be false, but a subscriber sent it who was anxious for its publication, and it was published to afford the party implicated an opportunity of contradicting it,—an opportunity of which he did not choose to avail himself. To avoid the recurrence of a similar piece of casuistry, this notice of the paragraph in the *Globe* may be excused; and as it is in vain, I fear, to expect that print to right the wrong in question, I respectfully request the administration-journals generally whose editors respect truth to give their readers an opportunity of seeing my denial.

There are men of all parties who honor me with their esteem and are entitled to mine. They at least will not think the worse of the independent press which dares do justice to the character of a former political opponent, now an unambitious and unobtrusive private citizen.

I am, sir, very respectfully, your obedient, humble servant,

RICHARD HENRY WILDE,
of Georgia.

In a work published in London, December, 1834, Henry Tudor, a tourist who had visited the United States, notices American statesmen in Congress, and, among them, thus refers to Mr. Wilde:—

One of the most insinuating of the speakers of the House was Mr. WILDE, the member for Georgia. There was a polished, gentlemanly style in his manners that was highly prepossessing, reminding you strongly of the grace and elegance so conspicuous in the address of Lord Lyndhurst. In addition to an expressive animation of feature, there was a smiling good-nature of countenance which, at the same time that it engages the favor and attention of his auditors generally, must in some measure have disarmed his tariff opponents. His arguments were forcible, well illustrated, and eloquently delivered; and I could easily perceive some of his political adversaries, in defiance of his conciliating demeanor, wincing under the lash of his well-pointed sarcasm with a gravity and ill-concealed asperity of visage which contrasted powerfully with the playful expression of his own.

The labors of Mr. Wilde, and his reputation abroad, have been recently noticed in the public journals, in terms of which a specimen is given:—

The correspondent of the *Newark Daily Advertiser*, writing from Rome on the 30th of January, 1856, alludes, in the following complimentary manner, to the labors of two distinguished Americans, Mr. Greenough,

the sculptor, and Mr. Wilde, of whom Georgia has reason to be proud. The extract will no doubt be read with pleasure.

The last number of the "Archivio Storico Italino," an invaluable serial publication of the nature of your Historical Society's periodical, honorably recalls the labors of Horace Greenough, the pioneer of American sculptors in Italy, who has thus found a fitting memorial in the most authentic records of the History of Modern Italy. His friends and countrymen could desire nothing more complimentary than his appreciative memoir, which mentions with just pride that he bore the title of "honorary professor of the Florentine Academy of the Beautiful Arts." In the same publication I find also a brief memoir of our lamented countryman, Richard Henry Wilde, the statesman, scholar, and jurist, known in our political history as the eloquent representative of Georgia in Congress, in our literature as the author of the charming lyric "My life is like the Summer Rose" and a work on the "Madness and Imprisonment of Torquato Tasso," and in our jurisprudence as the law-professor of the University of New Orleans, where he was cut off in 1847 by yellow fever at the age of fifty-eight. It appears by this memoir that Mr. Wilde had made rare collections, during his long sojourn in Italy, for a learned illustrative work on the life and times of Dante, which the writer hopes will pass into hands capable of perfecting his original intention. A series of interesting letters, running from 1834 to 1837, from Charles Botta, the elegant Italian historian of the American Revolution, to George Washington Greene, (the grandson of one of its chiefs,) who filled the office of United States Consul at Rome some years, is also preserved in this collection of historical papers.

The American citizens thus honored in these "Archives" are fondly recognised as *Italo-fili Americani*.

The author very much desired to furnish a fragment or two, at least, showing the professional research and skill of Mr. Wilde as an advocate. For this purpose he caused an examination to be made in the Clerk's Office of Baldwin Superior Court for the pleadings in the great case, involving about one hundred Africans, in which the point arose, in trover, whether the individual names, or other marks of identity, were not essential in the declaration. It is said that Mr. Wilde replied to this objection by the example of a flock of sheep sued for by the owner: could they be described specially in an action? The author, unintentionally, gave the clerk and his polite deputy a good deal of trouble in the vain search, as it was afterward ascertained that the case was brought in another court. In his annual message to the Legislature, November 6, 1821, Gov. Clark thus alludes to it:—

Proceedings are still pending in the District Court of the United States in relation to certain Africans introduced into the State in violation of law. For a time these proceedings were delayed by claims interposed by William Bowen and Miguel De Castro. Upon the dismissal of these claims, it was hoped that no further obstacle to a speedy decision would have presented itself. But while an allegation was in progress, at the instance of the State, for the purpose of a condemnation of the property, a new and unexpected claim has made its appearance, in the name of Juan

Madrazo, seeking a recovery of the negroes on hand, and the proceeds of those that have been sold. For want of such condemnation, the resolution of the last Legislature, directing a disposition of the Africans, has not been complied with. This claim having been represented to me, by the counsel employed, as being prosecuted by counsel able and numerous,—to wit, Messrs. Harris, Charlton, Bulloch, Wayne, and Wilde,—I have engaged the services of assistant counsel, Messrs. Davies and Law, and directed an early determination of the case. From a late interview with Judge Davies, I have reason to expect a decision on the second Tuesday of the present month. But, from the invention of those claiming to be interested, it may be protracted still longer.

The case continued to drag along, contrary to the expectations of the Governor, until it was taken to the Supreme Court of the United States, January Term, 1828. It will be found in 1 Peters's Reports, p. 110,—Mr. Berrien appearing for the State of Georgia, and Mr. Wilde for the libellant Madrazo. The facts are too voluminous to be noticed here in detail. Chief-Justice Marshall delivered the opinion of the court, reversing the decree below which gave to Madrazo the remaining portion of the Africans seized, some thirty in number, and the sum of \$38,000, which had been paid into the State Treasury from the sale directed by the Legislature. In his dissenting opinion, Judge Johnson says that "Madrazo, with abundant proof of his rights, is left without remedy." Some very curious points are involved, touching jurisdiction, for which the professional reader is referred to the case reported by Peters.

There was a time in Georgia when the circulation of the banks was impaired, or, at least, when their notes were frequently counterfeited, at the expense of the community, and much to the annoyance of the bank-officers, who were often called at a distance to give testimony in prosecutions. This induced the banks to employ counsel to prepare such a bill, so guarded, precise, and comprehensive, that the mind of the Legislature could not be misunderstood in any possible case that might arise. Mr. Wilde was selected to prepare the bill. It is entitled "an act more effectually to prevent the crimes of forgery and counterfeiting," approved December 10, 1812, and may be found in Lamar's compilation, p. 554. It occupies ten quarto pages of that volume, and is one of the finest specimens of preventive legislation on record; for it enumerates every thing connected with the uttering, fabrication, and attempts to pass false paper that human ingenuity could conceive. The author was informed, by a gentleman* who spoke advisedly, that

* The late William H. Torrance, Esq.

for this service Mr. Wilde received from the banks in Augusta the sum of five hundred dollars.

At the regular time in this narrative the vote for Representatives in Congress in 1834 was not stated, at which election Mr. Wilde sustained his second defeat. The omission is here supplied, distinguishing the rival tickets :—

STATE-RIGHTS.	UNION.
R. A. Beall.....27,500	J. Coffec.....32,632
A. H. Chappell.....27,673	S. Grantland..... 32,449
W. C. Daniell.....27,447	C. E. Haynes.....32,616
T. F. Foster.....28,036	G. W. Owens..... 32,533
R. L. Gamble.....27,235	J. W. A. Sanford.....32,412
G. R. Gilmer.....28,407	W. Schley.....32,851
H. G. Lamar.....27,489	J. C. Terrell.....32,494
D. Newnan.....27,457	G. W. Towns..... 32,593
R. H. Wilde.....28,283	J. M. Wayne.....32,934

The United States Supreme Court Reports show that Mr. Wilde frequently argued important causes at that bar; and, where the record fails to notice his preparation, it may be safely assumed that he was always master of his side of every question. He gave his energies, his time, his professional emulation, to his clients, whom he served faithfully. In the large number of land-claims taken up from Florida, based on Spanish grants, he was generally retained. It must have been a rich harvest to him in money and reputation. His career at the bar, his whole public life, and his merits as a scholar might be enlarged upon, much to his credit; but it is necessary to bring this memoir to a close.

He returned from Europe in 1842, and took his seat in the Whig State Convention at Milledgeville, in that year, as a delegate from Richmond. His appearance was imposing and attractive. He was the focus of all eyes. In the course of a speech of surpassing beauty and tender recollections, he referred to an old friend,* then in the Convention, who, more than twenty-five years previously, had brought him forward for Congress and aided warmly in his election. To the younger members of the Convention Mr. Wilde was personally a stranger. They were highly gratified at the opportunity of listening to his eloquence. Nor did he disappoint their sanguine expectations. He rose to impassioned heights and scattered gems in every direction. This was his last appearance

* The late Gen. Ezekiel Wimberly, of Twiggs county.

in any public assemblage in Georgia. He removed to New Orleans the next year, to resume the practice of the law. His high character as a jurist had preceded him, and he at once commanded a lucrative business. He confined himself to important causes, where the litigation would justify liberal fees. His *minimum* charge is said to have been five hundred dollars. The civil law, which prevails in Louisiana, opened a rich field to a mind so well versed in Roman history and the elements of jurisprudence as that of Mr. Wilde. He became at once a leader among the veterans of the New Orleans bar,—with Grymes, Roselius, Preston, Micou, Prentiss, Mazareau, Slidell, Hunt, Elmore, Soulè, Benjamin, and others of established influence. In the mean time he was elected Professor of Constitutional Law in the University of Louisiana.

During the prevalence of yellow fever in New Orleans in the summer of 1847, Mr. Wilde refused to leave the city to escape the disease. He doubtless believed that by proper caution he would not take it, or, if he did, it would not prove fatal in the midst of the eminent professional skill at his command. But his destiny was sealed. He became ill, and, with the remedies usually applied with success, he had no apprehension of danger until within a few hours of his death. On being notified of his perilous situation, he became deeply anxious, and struggled to maintain his hold on life. At his lodgings in the St. Charles Hotel, RICHARD HENRY WILDE breathed his last, on the 10th day of September, 1847, in the fifty-eighth year of his age. Thus passed away the poet, the orator, and the statesman, of rare accomplishments, with his talents and his fame in meridian splendor.

The press in all quarters teemed with glowing eulogies. The bar of New Orleans, the bar of Augusta, and in other places, manifested the highest respect for his memory. The public mourned over his death: his name will never perish while genius has an admirer.

APPENDIX.

I.

COURT-ROLL.

Names of Judges of the Superior Court and Solicitor-Generals, in Georgia, from 1790 to 1857. Those in *italics* were appointed by the Executive to fill vacancies.

I.—EASTERN CIRCUIT: 1791.

JUDGES.	DATE OF COMMISSIONS.
John Houstoun,	January 17, 1792.
William Stephens,	February 22, 1796.
John Glen,	January 7, 1798.
<i>David Brydie Mitchell,</i>	February 28, 1798.
David Brydie Mitchell,	January 19, 1799.
<i>George Jones,</i>	July 17, 1804.
George Jones,	November 22, 1804.
Robert Walker,	May 13, 1808.
John M. Berrien,	November 6, 1813.
John M. Berrien,	November 10, 1816.
John M. Berrien,	November 8, 1819.
<i>Thomas U. P. Charlton,</i>	February 19, 1821.
Thomas U. P. Charlton,	May 8, 1821.
James M. Wayne,	November 8, 1822.
James M. Wayne,	November 12, 1825.
William Davies,	November 7, 1828.
<i>William Law,</i>	May 12, 1829.
William Law,	November 4, 1829.
William Law,	November 12, 1831.
John C. Nicoll,	November 12, 1834.
<i>Robert M. Charlton,</i>	December 31, 1835.
Robert M. Charlton,	November 10, 1836.
<i>Charles S. Henry,</i>	August 29, 1837.
Charles S. Henry,	May 1, 1839.
Charles S. Henry,	November 12, 1841.
William B. Fleming,	November 11, 1845.
Henry R. Jackson,	November 13, 1849.
<i>Joseph W. Jackson,</i>	August 12, 1853.
William B. Fleming,	November 7, 1853.

SOLICITOR-GENERALS.

George Woodruff,
 David B. Mitchell,
 William B. Bulloch,
Thomas U. P. Charlton,
 Thomas U. P. Charlton,
 John M. Berrien,
 Joseph S. Pelot,
 Edward F. Tattnall,
 William Law,
 William Law,
 John C. Nicoll,
 Nathaniel P. Bond,
 Charles S. Henry,
 Joseph W. Jackson,
William H. Stiles,
 William H. Stiles,
 John Elliott Ward,
 John Elliott Ward,
 John Elliott Ward,
Edward J. Harden,
 Richard W. Owens,
 William P. White,
 William P. White,
 William P. Gaulden,
George A. Gordon,
 Julian Hartridge,

DATE OF COMMISSIONS.

June 16, 1795.
 February 22, 1796.
 January 19, 1799.
 October 5, 1804.
 November 22, 1804.
 November 18, 1809.
 November 6, 1813.
 November 10, 1816.
 September 17, 1817.
 November 8, 1819.
 October 2, 1821.
 November 8, 1822.
 November 12, 1825.
 November 12, 1831.
 May 9, 1833.
 November 12, 1834.
 January 7, 1836.
 November 10, 1836.
 December 7, 1837.
 March 23, 1838.
 November 27, 1838.
 November 6, 1840.
 November 11, 1843.
 November 8, 1847.
 May 29, 1855.
 November 10, 1855.

II.—MIDDLE CIRCUIT: 1793.

JUDGES.

George Walton,
William Feir,
 George Walton,
 George Walton,
Benjamin Skrine,
 Benjamin Skrine,
 Robert Walker,
 Robert R. Reid,
 John H. Montgomery,
 Robert Walker,
Robert Raymond Reid,
 Robert Raymond Reid,
 William Schley,
 William W. Holt,
 William W. Holt,
 John Shly,
 John Shly,
 John Shly,
 Roger L. Gamble,
William W. Holt,
 William W. Holt,

DATE OF COMMISSIONS.

December 16, 1793.
 March 6, 1796.
 January 19, 1799.
 November 12, 1801.
 February 10, 1804.
 May 18, 1804.
 November 6, 1813.
 November 10, 1816.
 November 8, 1819.
 November 8, 1822.
 March 1, 1825.
 June 14, 1825.
 November 12, 1825.
 November 7, 1828.
 November 12, 1831.
 November 12, 1834.
 January 20, 1838.
 November 12, 1841.
 November 11, 1845.
 January 18, 1847.
 November 5, 1847.

JUDGES.

Ebenezer Starnes,
Andrrie J. Miller,
William W. Holt,
 William W. Holt,

DATE OF COMMISSIONS.

November 13, 1849.
 July 8, 1853.
 August 12, 1853.
 November 7, 1853.

ATTORNEY-GENERALS.

Henry George Caldwell,
 Peter Johnston Carnes,
 Robert Walker,
 John Forsyth,
 Alexander Allen,
 Alexander M. Allen,
 Roger L. Gamble,
 Roger L. Gamble,
 Thomas F. Wells,
 Thomas F. Wells,
George W. Crawford,
 George W. Crawford,
 George W. Crawford,
 Charles J. Jenkins,
Ebenezer Starnes,
 Ebenezer Starnes,
 James Gardner,
 John J. Flournoy,
 Alpheus Colvert,
 John T. Shewmake,
 William R. McLaws,

DATE OF COMMISSIONS.

February 22, 1796.
 January 19, 1799.
 November 22, 1804.
 May 13, 1808.
 April 3, 1811.
 November 6, 1813.
 November 10, 1816.
 November 8, 1819.
 November 8, 1822.
 November 12, 1825.
 March 1, 1827.
 November 9, 1827.
 November 7, 1828.
 November 12, 1831.
 August 25, 1834.
 December 18, 1837.
 November 6, 1840.
 November 9, 1843.
 November 6, 1847.
 November 7, 1851.
 November 10, 1855.

III.—WESTERN CIRCUIT: 1796.

JUDGES.

Benjamin Taliaferro,
 Thomas P. Carnes,
 Thomas P. Carnes,
John Griffin,
 Charles Tait,
 Charles Tait,
 Thomas P. Carnes,
 Young Gresham,
 John M. Dooly.
 Augustin S. Clayton,
 Augustin S. Clayton,
 William H. Underwood,
 Augustin S. Clayton,
 Charles Dougherty,
 Thomas W. Harris,
 Julius Hillyer,
 Charles Dougherty,
 James Jackson,
 James Jackson,
Nathan L. Hutchins,

DATE OF COMMISSIONS.

February 22, 1796.
 January 27, 1798.
 January 19, 1799.
 July 11, 1803.
 November 19, 1803.
 November 22, 1804.
 December 15, 1809.
 November 6, 1813.
 November 10, 1816.
 November 8, 1819.
 November 8, 1822.
 November 12, 1825.
 November 7, 1828.
 November 12, 1831.
 November 9, 1837.
 November 14, 1841.
 November 11, 1845.
 November 13, 1849.
 November 7, 1853.
 July 1, 1857.

SOLICITOR-GENERALS.

Peter Lawrence Van Allen,
 Peter Lawrence Van Allen,
John Mitchell Dooly,
 Archibald Martin,
 John M. Dooly,
 Thomas W. Cobb,
 Duncan G. Campbell,
 Allen Lawhon,
 Cicero Holt,
 Green W. Smith,
 Turner H. Trippe,
 Turner H. Trippe,
 Julius Hillyer,
 Howell Cobb,
 William H. Hull,
 John W. H. Underwood,
 James W. Harris,
 Dickerson W. Walker,
 William J. Peeples,
 Samuel P. Thurmond,

DATE OF COMMISSIONS.

February 22, 1796.
 January 19, 1799.
 September 2, 1802.
 December 3, 1802.
 November 22, 1804.
 November 6, 1813.
 November 10, 1816.
 November 8, 1819.
 November 8, 1822.
 November 12, 1825.
 November 7, 1828.
 November 12, 1831.
 November 12, 1834.
 December 6, 1837.
 November 7, 1840.
 November 11, 1843.
 April 1, 1847.
 November 6, 1847.
 November 7, 1851.
 November 10, 1855.

IV.—OCMULGEE CIRCUIT: 1813.

JUDGES.

Stephen Willis Harris,
 Christopher B. Strong,
 Augustus B. Longstreet,
 Owen H. Kenan,
 Eli S. Shorter,
 Thomas W. Cobb,
 Lucius Q. C. Lamar,
 Lucius Q. C. Lamar,
John G. Polhill,
 John G. Polhill,
 John G. Polhill,
Adam G. Saffold,
 Edward Y. Hill,
 Francis H. Cone,
William C. Dawson,
 James A. Meriwether,
 Herschel V. Johnson,
Francis H. Cone,
Robert V. Hardeman,
 Robert V. Hardeman,

DATE OF COMMISSIONS.

November 6, 1813.
 November 10, 1816.
 November 8, 1822.
 November 12, 1825.
 November 7, 1828.
 December 22, 1828.
 November 5, 1830.
 November 12, 1831.
 July 7, 1834.
 November 12, 1834.
 November 13, 1837.
 September 6, 1838.
 November 12, 1838.
 November 13, 1841.
 February 1, 1845.
 November 11, 1845.
 November 13, 1849.
 September 1, 1853.
 October 10, 1853.
 November 7, 1853.

SOLICITOR-GENERALS.

Bedney Franklin,
 Bedney Franklin,
 Seaborn Jones,
 Adam G. Saffold,
 Yelverton P. King,
 Gibson Clark,
 Mark A. Cooper,

DATE OF COMMISSIONS.

November 6, 1813.
 November 10, 1816.
 September 17, 1817.
 November 8, 1819.
 November 8, 1822.
 November 12, 1825.
 November 7, 1828.

SOLICITOR-GENERALS.

Edward Y. Hill,
 Hamlin Freeman,
Richard O. Davidson,
 Richard O. Davidson,
 William G. Smith,
Nathaniel G. Foster,
 Nathaniel G. Foster,
Frederick H. Sanford,
 Augustus Reese,
 John M. Ashurst,
 James L. Brown,
 George T. Bartlett,
 Thomas P. Saffold,
 William A. Lofton,

DATE OF COMMISSIONS.

November 12, 1831.
 November 12, 1834.
 January 26, 1836.
 November 11, 1836.
 November 13, 1837.
 March 3, 1838.
 November 13, 1838.
 October 5, 1840.
 November 6, 1840.
 November 11, 1843.
 January 26, 1847.
 November 8, 1847.
 November 8, 1851.
 November 10, 1855.

V.—SOUTHERN CIRCUIT: 1819.

JUDGES.

Thomas W. Harris,
 Thomas W. Harris,
Thaddeus Goode Holt,
 Thaddeus G. Holt,
 Moses Fort,
 Thaddeus G. Holt,
 Lott Warren,
 James Polhill,
Carleton B. Cole,
 Arthur A. Morgan,
 Carleton B. Cole,
 Carleton B. Cole,
 James J. Scarborough,
 Augustin H. Hansell,
Peter E. Love,
 Peter E. Love,

DATE OF COMMISSIONS.

November 8, 1819.
 November 8, 1822.
 December 23, 1824.
 June 14, 1825.
 November 12, 1825.
 November 7, 1828.
 November 12, 1831.
 November 12, 1834.
 April 13, 1836.
 November 11, 1836.
 November 13, 1837.
 November 12, 1841.
 November 11, 1845.
 November 13, 1849.
 November 25, 1852.
 November 7, 1853.

SOLICITOR-GENERALS

Thaddeus G. Holt,
 Thaddeus G. Holt,
Robert Augustus Beall,
 James N. Bethune,
 Thomas D. Mitchell,
 Lott Warren,
 Thomas Porter,
 Stephen F. Miller,
 Robert A. Evans,
 William W. Wiggins,
 William W. Wiggins,
 John Gibson,
 Peter E. Love,
 Thaddeus Sturgis,
George W. Jordan,
 Pitt F. D. Scarborough,
 John S. Wynn,
 Edward T. Sheftall,

DATE OF COMMISSIONS.

November 8, 1819.
 November 8, 1822.
 December 23, 1824.
 June 14, 1825.
 November 12, 1825.
 November 12, 1826.
 November 7, 1828.
 November 12, 1831.
 November 12, 1834.
 December 12, 1835.
 December 18, 1837.
 November 6, 1840.
 November 11, 1843.
 November 17, 1849.
 May 26, 1851.
 November 7, 1851.
 January 30, 1854.
 November 10, 1855.

VI.—NORTHERN CIRCUIT: 1822.

JUDGES.	DATE OF COMMISSIONS.
John M. Dooly,	November 8, 1822.
John M. Dooly,	November 12, 1825.
<i>William H. Crawford,</i>	June 1, 1827.
William H. Crawford,	November 10, 1827.
William H. Crawford,	November 7, 1828.
William H. Crawford,	November 12, 1831.
<i>Garnett Andrews,</i>	September 8, 1834.
Garnett Andrews,	November 13, 1837.
Garnett Andrews,	November 12, 1841.
Nathan C. Sayre,	November 11, 1845.
Eli H. Baxter,	November 13, 1849.
<i>William Gibson,</i>	October 14, 1853.
Garnett Andrews,	November 7, 1853.
<i>Thomas W. Thomas,</i>	August, 1855.
Thomas W. Thomas,	November 6, 1855.
SOLICITOR-GENERALS.	DATE OF COMMISSIONS.
John A. Heard,	November 8, 1819.
Micajah Henley,	November 8, 1822.
John B. Stewart,	November 12, 1825.
<i>Benjamin F. Hardeman,</i>	August 10, 1826.
<i>Nathan C. Sayre,</i>	August 26, 1826.
Nathan C. Sayre,	November 12, 1826.
Benjamin F. Hardeman,	November 7, 1828.
Daniel Chandler,	November 12, 1831.
Albert G. Semmes,	November 12, 1834.
<i>Franklin A. Nisbet,</i>	March 28, 1837.
Upton J. Heath, Jr.,	November 13, 1837.
<i>Isaiah T. Irwin,</i>	May 9, 1840.
Alexander Pope,	November 6, 1840.
Gabriel Nash,	November 11, 1843.
Lucius J. Gartrell,	December 19, 1843.
<i>Bernard E. Habersham,</i>	July 7, 1847.
John B. Weems,	November 8, 1851.
Thomas M. Daniel,	November 10, 1855.

VII.—FLINT CIRCUIT: 1822.

JUDGES.	DATE OF COMMISSIONS.
Eli S. Shorter,	November 8, 1822.
Charles J. McDonald,	November 12, 1825.
Christopher B. Strong,	November 7, 1828.
Christopher B. Strong,	November 12, 1831.
Angus M. D. King,	November 12, 1834.
Angus M. D. King,	November 13, 1837.
Edward D. Tracy,	November 12, 1841.
John J. Floyd,	November 11, 1845.
James H. Starke,	November 13, 1849.
James H. Starke,	November 7, 1853.
<i>Gilbin J. Greene,</i>	January 23, 1856.
Eldridge G. Cabiness,	February 6, 1857.

SOLICITOR-GENERALS.

Charles J. McDonald,
Benjamin F. Harris,
Richard L. Sims,
Washington Poe,
James H. Starke,
James H. Starke,
Zachariah Harman,
Augustin S. Wingfield,
Samuel Holl,
Rufus W. McCune,
R. M. Stell,
James R. Lyons,

DATE OF COMMISSIONS.

November 10, 1822.
November 12, 1825.
November 7, 1828.
November 12, 1831.
November 12, 1834.
November 13, 1837.
November 7, 1840.
November 11, 1843.
January 28, 1845.
January 5, 1846.
July 5, 1851.
November 10, 1856.

VIII.—CHATTAHOOCHEE CIRCUIT: 1826.

JUDGES.

Walter T. Colquitt,
Walter T. Colquitt,
Grigsby E. Thomas,
Alfred Iverson,
Joseph Sturgis,
Marshall J. Wellborn,
Joseph Sturgis,
Robert B. Alexander,
Robert B. Alexander,
Alfred Iverson,
Martin J. Crawford,
Edmund H. Worrill,

DATE OF COMMISSIONS.

December 15, 1826.
November 9, 1829.
November 10, 1832.
November 10, 1835.
December 25, 1837.
November 12, 1838.
November 11, 1842.
January 31, 1846.
November 10, 1846.
November 13, 1849.
January 23, 1853.
November 7, 1853.

SOLICITOR-GENERALS.

Samuel A. Bailey,
John W. Hooper,
James P. H. Campbell,
John U. Horne,
Henry L. Benning,
John H. Watson,
Alexander H. Cooper,
Uriah G. Mitchell,
John L. Lewis,
John L. Lewis,
John H. Howard,
Milton Williams,
James L. Pierce,
John Campbell,
Charles J. Williams,
Jack Brown,
Thaddeus Oliver,

DATE OF COMMISSIONS.

December 15, 1826.
December 15, 1829.
November 10, 1832.
November 14, 1835.
November 17, 1836.
November 13, 1839.
September 3, 1841.
November 11, 1841.
January 29, 1842.
November 10, 1842.
June 8, 1843.
November 25, 1843.
July 18, 1844.
November 14, 1844.
November 6, 1847.
January 16, 1852.
January 22, 1856.

IX.—CHEROKEE CIRCUIT: 1832.

JUDGES.

John W. Hooper,
Owen H. Kenan,

DATE OF COMMISSIONS.

December 8, 1832.
December 8, 1835.

JUDGES.

Turner H. Trippe,
George D. Anderson,
John A. Jones,
Augustus R. Wright,
John H. Lumpkin,
John W. Hooper,
Turner H. Trippe,

DATE OF COMMISSIONS.

November 12, 1838.
November 11, 1842.
April 4, 1843.
November 11, 1843.
November 18, 1849
July 12, 1850.
November 7, 1853.

SOLICITOR-GENERALS.

William Ezzard,
Henry Lightfoot Sims,
John H. Lumpkin,
Thomas C. Hackett,
John J. Word,
John J. Word,
James C. Longstreet,

DATE OF COMMISSIONS.

December 8, 1832.
December 15, 1835.
November 16, 1838.
November 11, 1841.
November 11, 1847.
November 8, 1851.
November 15, 1856

X.—COWETA CIRCUIT: 1833.

JUDGES.

Hiram Warner,
Hiram Warner,
William Ezzard,
Edward Y. Hill,
Edward Y. Hill,
Edward Y. Hill,
Obadiah Warner,
Orville A. Bull,
Orville A. Bull,

DATE OF COMMISSIONS.

December 18, 1833.
December 20, 1836.
November 6, 1840.
November 6, 1844.
November 6, 1847.
November 29, 1851.
November 4, 1853.
February 10, 1855.
December 6, 1855.

SOLICITOR-GENERALS.

Young J. Long,
George D. Anderson,
Noel B. Knight,
Kinchin L. Harralson,
Augustus C. Ferrell,
Dennis T. Hammond,
Mial M. Tidwell,
Logan E. Bleckley,

DATE OF COMMISSIONS.

December 18, 1833.
December 20, 1836.
November 13, 1839.
November 11, 1842.
November 12, 1845.
September 26, 1847.
November 13, 1849.
November 12, 1853.

XI.—SOUTH WESTERN CIRCUIT: 1840.

JUDGES.

William Taylor,
Lott Warren,
Lott Warren,
Lott Warren,
William Taylor,
William Taylor,
Edwin R. Brown,
William C. Perkins,
Alexander A. Allen,

DATE OF COMMISSIONS.

December 12, 1840.
September 30, 1844.
December 12, 1844.
November 6, 1847.
July 24, 1852.
November 9, 1852.
January 3, 1853.
November 9, 1853.
November 5, 1855.

SOLICITOR-GENERALS.

Adam A. Robinson,

DATE OF COMMISSIONS.

December 14, 1840.

SOLICITOR-GENERALS.	DATE OF COMMISSIONS.
William J. Patterson,	November 11, 1848.
William C. Perkins,	November 6, 1847.
John Lyon,	November 6, 1851.
John W. Evans,	November 10, 1855.

XII.—MACON CIRCUIT: 1851.

JUDGES.	DATE OF COMMISSIONS.
Abner P. Powers,	November 28, 1851.
Abner P. Powers,	December 28, 1855.
<i>Richard H. Clark,</i>	September 1, 1857.

SOLICITOR-GENERALS.	DATE OF COMMISSIONS.
William K. De Graffenreid,	December 8, 1851.
Theodorick W. Montford,	November 11, 1855.

XIII.—BLUE RIDGE CIRCUIT: 1851.

JUDGES.	DATE OF COMMISSIONS.
David Irwin,	November 8, 1851.
<i>Joseph E. Brown,</i>	October 4, 1855.
Joseph E. Brown,	November 1, 1855.

SOLICITOR-GENERALS.	DATE OF COMMISSIONS.
Edward D. Chisolm,	January 20, 1852.
William Phillips,	December 24, 1855.

XIV.—BRUNSWICK CIRCUIT: 1856.

JUDGE.	DATE OF COMMISSION.
Arthur E. Cochran,	February 8, 1856.

SOLICITOR-GENERAL.	DATE OF COMMISSION.
William H. Dasher,	February 9, 1856.

XV.—PATAULA CIRCUIT: 1856.

JUDGE.	DATE OF COMMISSION.
<i>David Kiddoo,</i>	February 9, 1856.
David Kiddoo,	May 1, 1856.

SOLICITOR-GENERAL.	DATE OF COMMISSION.
William Harrell,	February 17, 1857.

XVI.—TALLAPOOSA CIRCUIT: 1856.

JUDGE.	DATE OF COMMISSION.
D. F. Hammond,	February 6, 1857.

SOLICITOR-GENERAL.	DATE OF COMMISSION.
Herbert Fielder,	February 17, 1857.

CITY COURT OF SAVANNAH: 1820.

JUDGES.	DATE OF COMMISSIONS.
James M. Wayne,	September 1, 1820.
John C. Nicoll,	March 9, 1824.
John C. Nicoll,	November 12, 1826.

JUDGES.	DATE OF COMMISSIONS.
John C. Nicoll,	November 4, 1829.
John C. Nicoll,	November 10, 1832.
Charles S. Henry,	November 13, 1834.
Charles S. Henry,	December 3, 1835.
John C. Nicoll,	September 11, 1837.
Levi S. D'Lyon,	November 12, 1838.
Levi S. D'Lyon,	November 12, 1841.
William B. Fleming,	November 11, 1844.
Edward J. Harden,	November 13, 1845.
Mordecai Sheftall,	November 6, 1847.
Alexander Drysdale,	November 12, 1850.
George Troup Howard,	December 13, 1853.
James S. Millen,	————, 1855.

CITY COURT OF AUGUSTA: 1827.

JUDGES.	DATE OF COMMISSIONS.
Robert Raymond Reid,	February 22, 1827.
Robert Raymond Reid,	November 9, 1829.
John P. King,	June 1, 1832.
John W. Wilde,	November 10, 1832.
John W. Wilde,	December 3, 1835.
John W. Wilde,	December 19, 1838.
John W. Wilde,	November 25, 1841.
John W. Wilde,	November 15, 1844.
John W. Wilde,	November 12, 1847.
John W. Wilde,	November 5, 1850.
William T. Gould,	February 21, 1851.
William T. Gould,	November 14, 1853.

CITY COURT OF MACON*: 1835.

JUDGES.	DATE OF COMMISSIONS.
Robert A. Beall,	November 10, 1832.
Clifford Anderson,	————, 1856.
William L. A. Ellis, City Attorney.	

SUPREME COURT. (established in 1845.)

JUDGES.	DATE OF COMMISSIONS.
Joseph Henry Lumpkin,	December 24, 1845.
Hiram Warner,	December 24, 1845.
Eugenius A. Nisbet,	December 24, 1845.
Eugenius A. Nisbet,	November 13, 1847.
Hiram Warner,	November 13, 1847.
Joseph Henry Lumpkin,	November 8, 1851.
<i>Ebenezer Starnes,</i>	July 8, 1853.
Ebenezer Starnes,	November 19, 1853.
Henry L. Benning,	November 26, 1853.
Charles J. McDonald,	January 12, 1856.

NOTE TO THE COURT-ROLL.—In examining the several books of registered commissions in the Secretary of State's Office, much care was necessary to sift out the documents desired, as all varieties of commissions,

* Soon abolished: revived, by popular election, in 1856.

civil, military, and special, issued by the Governor, were recorded promiscuously until the administration of Gov. Cobb, when a separate book was provided for judicial officers. It is believed, however, that all have been noted that appear in the Secretary's Office. The omissions might have been supplied by referring to the Executive Journal, in which an order is entered for the issuing of every commission; but the request for such a privilege was not in keeping with the author's ideas of propriety, and was not made,—though he has reason to believe that the Governor would have granted any reasonable facility to accomplish the objects of this work. Among the instances omitted are the commissions to Judge Early and to two or three other judges. A few of the Solicitor-Generals, also, do not appear on the roll, for the same reason. This explanation is deemed necessary to account for the intervals between successive commissions observable in some of the circuits.

On the 21st day of March, 1789, a commission was issued to the Honorable Nathaniel Pendleton as Chief-Justice of Georgia; after which no judicial commission appears until that to Judge Houstoun, of the Eastern circuit, in 1792.

To Col. WATKINS, Secretary of State, the author is indebted for many courtesies while he was occupied in searching the archives of the Department, and also to Mr. Briscoe and Mr. McCombs, the private secretaries of Gov. Johnson.

II.

FRAGMENTS, BY THE AUTHOR.

WITH no design of reproducing his former opinions for partisan effect, or for any selfish purpose whatever disconnected with the merits of the subjects touched upon, the author makes free to include in the appendix to the memoirs a number of articles from his pen, some written while he acted as editor of the *Independent Monitor*, from March 1, 1840, to October 1, 1847. The *Monitor* was then published by the late M. D. J. SLADE,* Esq., in Tuscaloosa, Alabama, the former seat of the State Government. Some thirty years ago, Mr. SLADE and SIMRI ROSE, Esq., (the latter still of Macon,) were joint proprietors of the *Georgia Messenger*, which was subsequently united with the *Georgia Journal*, under the editorial charge of the late S. T. CHAPMAN, Esq.

The articles selected by the author to be explained briefly as occasion may require are the following:—

* Mr. Slade died in July, 1857.

1. Annexation of Texas to the United States.
2. Defeat of Henry Clay for the Presidency, 1844.
3. Signs of Revolution in Europe, 1847.
4. Generosity and Justice in Political Warfare.
5. Applying for an Office.
6. The Southern Question, 1850.
7. Labor Essential to Happiness.
8. Neutrality in the Presidential Election.
9. Letter to John Livingston, Esq., on "Eminent Americans."
10. Letters to a Young Friend.
11. Review of Gov. Gilmer's Book, ("Georgians.")
12. Letter to B. H. Overby, Esq., on the Governor's Election, 1855.
13. Library of Pamphlets.

To show that he had taken an early part for Texas, even before her independence was achieved at San Jacinto, April 21, 1836, the author submits a circular he prepared, which was published in the Livingston papers (also in letter-form, and extensively addressed to leading men of the South) about the time it bears date. Mr. OCHILTREE, whose name is at the head of the committee, was afterward Attorney-General of Texas, and a judge of the Circuit Court of the Republic.

LIVINGSTON, Alabama, April 7, 1836.

SIR :—By the subjoined resolution, adopted, among others, at a public meeting of the citizens of this town and of the county of Sumter, it is made the duty of the undersigned to obtain early information upon the state of affairs in Texas, so as to enable them to carry out the patriotic and liberal objects of the meeting, in conveying relief to the champions of Liberty who are now gallantly fighting her battles in the province of Texas. The latest accounts from that distressed country have aroused the warmest public feeling in behalf of the noble band of patriots who contend against the bloody despotism of Santa Anna and his ruthless myrmidons. A committee of thirteen gentlemen has been appointed by the meeting to take charge of subscriptions for the benefit of the Texian army; and, as we believe liberal contributions of money will be made by our spirited fellow-citizens, we respectfully ask you to suggest to us, as early as possible, the best mode of applying the sums so raised, whether by a direct remittance of the funds by an agent to Texas, or whether by the purchase of provisions in New Orleans or elsewhere, to be immediately forwarded to such point as will insure their safe and speedy arrival at the headquarters of the Texian army. Now is the critical and trying hour which may decide the fortunes of these brave men,—a large portion of them citizens of the United States, and all of them our brethren in the cause of freedom. For any suggestions you may be pleased to make in reply we shall feel thankful. Our fellow-citizens anxiously look to the result; and we hope it will entirely suit your convenience to furnish us some statements on the subject of the war in Texas, that we may supply the

aid in our power at an early day and in such mode as will be of the greatest service.

We are, most respectfully, your fellow-citizens,

WILLIAM B. OCHILTREE,
JOHN D. SMITH,
STEPHEN F. MILLER,
PLEASANT N. WILSON,
ROBERT H. DALTON,
Committee.

April 6, 1836.

Resolved, That Wm. B. Ochiltree, John D. Smith, Stephen F. Miller, Pleasant N. Wilson, Esquires, and Doct. R. H. Dalton, be appointed a committee to procure early information upon the state of the army in Texas, and to report through the public papers the result of their inquiries, and that the committee correspond with distinguished citizens, in such quarters of the country as they may deem proper, in relation to the subject, all the facts thus collected to be laid before the several committees raised by this meeting, without delay.

When the Texas question was likely to become an issue in the Presidential canvass of 1844, the author frankly espoused the measure in advance of the Whig press generally.

I.—ANNEXATION OF TEXAS.

(From the Monitor, April 10, 1844.)

The subject of annexing Texas to the United States is entitled to great consideration. We see nothing in it which should excite the North. Slavery already exists in Texas. The mere fact that it shall form a part of our territory will not increase slavery. If the Northern people think otherwise, they are most unreasonable. Their abuse of the proposed annexation is gratuitous and overbearing. The threat that some of them make—to dissolve the Union rather than see Texas admitted into our family of States with the institution of domestic slavery—is more the ravings of madness than the dictate of reason or humanity. We are as indulgent as any need be in matters of opinion or duty; but we see no justification for such violence on the part of the North, or non-slaveholding States. If Texas should come into the Union, (as we trust it may, upon terms satisfactory to all,) the acquisition to our national strength and prosperity will be vast. No republic or country will be found elsewhere affording such abundant means of comfort, independence, and happiness.

But our design at present is mainly to glance at the action of Congress in years past relative to Texas. The first step we shall notice appears on the Journal of the Senate of the United States, June 18, 1836, p. 448:—

“Mr. CLAY, from the Committee on Foreign Relations, to whom were referred the several memorials praying the recognition of the independence of Texas, made a report, accompanied by the following resolution:—

“*Resolved*, That the independence of Texas ought to be acknowledged

by the United States whenever satisfactory information shall be received that it has in successful operation a civil Government capable of performing the duties and fulfilling the obligations of an independent power."

With his usual promptness, President Jackson inquired into the condition of Texas through official agents. On the 1st of July, 1836, (Journal, p. 516,) Mr. PRESTON submitted the following resolution as an amendment to that reported by Mr. Clay:—

"Resolved, That the Senate has seen with satisfaction that the President has adopted measures to ascertain the political, military, and civil condition of Texas."

The vote was then taken on both resolutions together, and they were unanimously adopted. On the 22d of December, 1836, Gen. Jackson communicated to Congress the substance of the information he had obtained in relation to the Government of Texas, which was of the most favorable character. On the 12th of January, 1837, (Senate Journal, p. 110,) Mr. WALKER submitted the following resolution:—

"Resolved, That, the State of Texas having established and maintained an independent Government capable of performing those duties, foreign and domestic, which appertain to independent Governments, and it appearing that there is no longer any reasonable prospect of the successful prosecution of the war by Mexico against said State, it is expedient and proper, and in conformity with the laws of nations and with the practice of this Government in like cases, that the independent political existence of said State be acknowledged by the Government of the United States."

No vote was taken on its adoption until 1st of March, (Journal, 311,) when 23 Senators voted in the affirmative and 10 in the negative. The next day, Mr. Ruggles moved to reconsider the vote, which motion was lost by a tie,—24 to 24.

We have not traced the action of the House of Representatives on Mr. Walker's resolution. It is sufficient to say that it was adopted, and became binding on the Government. The independence of Texas, as a nation, was fully acknowledged. The Senate Journal, p. 110, under date of January 4, 1838, shows:—

"Mr. Preston submitted the following resolution for consideration:—

"Whereas, the just and true boundary of the United States, under the treaty of Louisiana, extended on the southwest to the Rio Grande del Norte, which river continued to be the true boundary-line until the territory west of the Sabine was surrendered to Spain by the treaty of 1819; and whereas, such surrender of a portion of the territory of the United States is of evil precedent and questionable constitutionality; and whereas, many weighty considerations of policy make it expedient to re-establish the said true boundary and to annex to the United States the territory occupied by the State of Texas, with the consent of the said State:—

"Be it therefore Resolved, That, with the consent previously had, and whenever it can be effected consistently with the public faith and treaty-stipulations of the United States, it is desirable and expedient to reannex said territory to the United States."

After delaying the subject until June 14, 1838, (Journal, p. 470,) a motion was made by Mr. Norvell to lay Mr. Preston's resolution on the table,—which prevailed by a vote of 24 to 14.

Thus terminated the question. Before then, however, the Government of Texas had applied for annexation to the United States, and President Van Buren refused to entertain the proposition, on the ground that it

would be equivalent to a declaration of war against Mexico, with whom we were at peace under treaty-stipulations.

We shall not quarrel with the refinements of diplomacy; but it seems odd that, after the United States had acknowledged Texas to be an independent nation, with all the faculties of self-government, the offer should have been rejected for fear of giving offence to Mexico! After Texas set up herself, and was recognised as an independent power by the United States, the pretensions of Mexico to the territory of Texas were entitled to no more weight than those of France or Great Britain. If Mexico had been aggrieved at all, it was by acknowledging that Texas had no superior, which of course excluded the right of Mexico to interfere with her separate organization. As Governments acting for themselves, each independent of all the rest, it was certainly the privilege of the United States to treat with Texas on a matter—the right of soil—which concerned themselves alone.

In this attitude the parties stand. If Texas comes into the Union, there will possibly be four or five new States formed out of the territory thus acquired. Be it little or much, four States or ten, we are willing, for the sake of harmony, to compromise with the North, and divide Texas into two equal parts, in one of which slavery shall be retained, and excluded from the other. If this will not suit, strength must decide. Texas will be annexed to some Government; and it would be folly in the people of the United States to let her pass into the hands of a European power. There is not such another beautiful portion of the globe as Texas. It is too great a prize to slip through our fingers. We believe the people of the South and West, as well as a large number at the North, understand their true interests well enough to contend for the prize. Once gained, it will form a happy era in our national and social condition.

(From the Monitor, April 17, 1844.)

ANOTHER DOOR FOR TEXAS.—It is reported at Washington that, if the treaty for annexation fails, Texas will apply for admission into the Union on the ground that the territory of Texas of right belongs to the United States, and that it contains the necessary population to form a new State. We hope that some method will be adopted, honorable and just to all parties, by which our country may soon acquire Texas.

Much has been said, in certain quarters, in derogation of the President, for his efforts to accomplish this great national object. It is alleged that he has humiliated his Government by inviting that of Texas to negotiation. Admit this to be true, (which has not yet been proved,) and he stands perfectly justified. Had all his acts been imbued with as much wisdom and propriety, he would have occupied a more enviable position. When a subject interests two Governments, or is deemed important by either, a step must be taken, or it never can be opened. Texas had once applied for annexation, and had been repulsed. If the President was convinced—as no doubt he was—that this country would be greatly benefited, it was his duty to propose the negotiation.

(From the Monitor, May 15, 1844.)

TEXAS QUESTION.—The letter of Mr. Van Buren has produced great dissatisfaction in the Democratic ranks South. We notice that in Huntsville the Democrats wish to revoke the instructions to the delegates to support his nomination at Baltimore.

At a meeting in Perry county, just before the receipt of Mr. Van

Buren's letter, a Democratic Elector of President said "he was almost ready to brand any man at the South with *abolitionism* who was opposed to the annexation of Texas to this Union." This was no doubt intended to mortify the Whigs because of Mr. Clay's letter. We notice that in other parts of Alabama the Democrats have been quite severe upon Mr. Clay's letter, and in a short time had the dire misfortune to find that Mr. Van Buren was also opposed to annexation. In this particular the two candidates for President occupy similar ground.

Now, we see no sufficient cause why the friends of Mr. Van Buren should desert him on account of his views on annexation. It may be that they are tired of him, and make this a pretext to throw him overboard. There is no grave principle involved. If he suits them in other respects, it is but reasonable and fair that they should pardon this difference of opinion. Mr. Van Buren's letter furnishes cogent reasons why annexation should not be accomplished now. He denies that our recognition of the independence of Texas is a bar to our relations with Mexico on what she conceives to be her rights of territory. We took the position, a few weeks ago, that the national character of Texas once admitted by our Government cancelled all obligations to notice Mexico in our intercourse with Texas. The letters of Mr. Clay and Mr. Van Buren on this subject have convinced us of the essential distinction between a government in *fact* and one of *right*, and that it has been the uniform practice of this country to recognise the one without concluding the pretensions of the other.

Even if we could not agree with Mr. Clay on annexation, we should not waver in his support. At most, it is a mere question of expediency, presenting no party issues. We have always treated it as purely a national, not a party, question. One reason why we desired immediate annexation was to prevent Great Britain from acquiring Texas. The President's organ at Washington had stated that evidence the most positive existed of such a design, which we have since perceived has been officially disavowed by that Power. This consideration justifies our withdrawing from the support of *immediate* annexation at all hazards. We believe that Texas will either preserve her national character, or, if unable to do so, that she will be incorporated into our Union at no distant period. Mr. Clay deems it a sufficient cause for the employment of force on our part to arrest the design of any European Power on Texas.

The argument used by the heated friends of instant annexation, that it will extend free institutions, is baseless. Texas has already copied our system of government, including slavery. What more can the South ask? What more could it do for Texas? When the proper time arrives—when the measure can be accomplished consistently with the national honor and interests—we shall advocate it. Until then we shall direct our attention to subjects in which the people of the whole country have a more immediate and practical concern. We desire to see the wide extent of territory which forms the Union wisely and honestly governed; and with that view we shall support the election of HENRY CLAY to the Presidency, as the paramount good. There is nothing in the letter of Mr. Clay to exclude the possibility of acquiring Texas under his administration with clean hands.

(From the Monitor, June 19, 1844.)

MR. CLAY'S TEXAS LETTER.—It has been falsely charged by his oppo-

nents that Mr. Clay addressed himself for support to the Abolitionists of the North, in the following passage of his letter :—

I do not think that Texas ought to be received into the Union, as an integral part of it, in decided opposition to the wishes of a *considerable and respectable portion of the Confederacy*.

Without reflecting on the sense of words, the enemies of Mr. Clay pervert his meaning to answer their sinister purposes. They ought to know—in fact, they do know—that “Confederacy” means a league of States, not a community of people. The American “Confederacy” was formed by thirteen sovereign States, and now embraces twenty-six. The “Confederacy,” then, is composed of the States in their political character, and is distinct, as a *league* of sovereigns, from the individuals who reside within its limits. In a previous part of his letter, Mr. Clay says:—

If, without the loss of national character, without the hazard of foreign war, with the general concurrence of the nation, *without any danger to the integrity of the Union*, and without giving an unreasonable price for Texas, the question of annexation were presented, it would appear in quite a different light from that in which I apprehend it is now regarded.

This, taken in connection with a “considerable and respectable portion of the Confederacy,” proves that Mr. Clay meant the States; as much as to say that if any “considerable and respectable number” of States were to assume an attitude threatening the integrity of, or likely to dissolve, the Union rather than admit Texas, then, with such prospect, annexation ought to be abandoned to preserve the Union. This is the meaning of Mr. Clay; and no other construction can be honestly given to his language. Until it is settled that “Confederacy” and “people” signify the same thing,—that a league of States means an aggregate body of individuals,—there can be no question or doubt that Mr. Clay referred to a “considerable and respectable portion” of the States as members “of the Confederacy,” and not to the people in their primary character.

Mr. Clay's history shows his strong love of the Union. He saved it on the Missouri question in 1820, and again in 1833, in the collision between South Carolina and the General Government. But for his master-spirit and influence, this glorious Republic of confederated States would have been broken into fragments. Mr. Clay considers the Union indispensable to our safety and happiness; and, therefore, if Texas cannot be received into it without danger to the Union itself, and either Texas or the Union must be given up, he will stand by the Union at all hazards and let Texas abide her time. If Mr. Clay did not cherish the Union as the paramount good, he would not be fit for President of the *United States*.

We trust that the people of the South will not suffer themselves to be longer imposed on and misled by those who make it a business to pervert the language and misrepresent the views of Mr. Clay on all subjects. We have given what we consider to be the true meaning of that portion of his Texas letter. If Mr. Clay had intended otherwise, he would have used the word “people” instead of “Confederacy,”—terms of very dissimilar import, which can never be confounded. No man is uniformly more explicit than Mr. Clay. To say that he referred to the Abolitionists, or any other set of individuals, as a “considerable and respectable portion of the Confederacy,” is trifling with public intelligence, as well as with the English language.

Mr. Clay's Texas letter, straightforward and manly, neither turning to the right nor left, is in keeping with his independent character and comprehensive statesmanship. The Presidency, tempting as it is to less exalted minds, is not sufficient to draw Mr. Clay one inch from that line of honor and duty by which his conduct and opinions have always been regulated. His Texas letter was not moulded for particular latitudes, but for the whole country. Time will prove the wisdom and correctness of his views.

The author enclosed to Mr. Clay a copy of the *Monitor*, with a letter of which the following is a copy :—

TUSCALOOSA, ALABAMA, June 20, 1844.

DEAR SIR :—The *Monitor* of yesterday, which I send you by to-day's mail, contains an editorial on your Texas letter, intended to repel the construction given by Southern Democrats to a particular passage in that letter. I contend, as you will see by the editorial referred to, that your use of the term "Confederacy" was in a special sense, and qualified by the "integrity of the Union," which did not apply to the people, as a mass. The Union can never be in danger except from disaffection or violence of some one or more of its members.

You readily understand the object of your opponents in impressing the people of the South with the belief that you were propitiating a certain influence at the North, by the terms "a considerable and respectable portion of the Confederacy," in reference to the annexation of Texas. The charge, I know, is unjust, and I have endeavored to show its want of foundation.

The Texas question, forming a new issue, is pushed here with great assiduity by the Democrats. The nomination of a Tennessee candidate, and the circumstances under which it was made, afford them no other ground to rally upon. The tariff, better understood now at the South, than ever, has lost its terrors with the people. They say that goods are cheaper than two years ago, when the tariff was lowest, that the Government has recovered its credit, pays its expenses from imports, and that individuals are much relieved in pecuniary matters. These facts they know to exist, and state in reply to designing politicians.

May I ask of you to read, in the *Monitor*, the proceedings of the Clay Club of this city? They exhibit the firmness of the Whigs of Alabama in support of their principles, maugre the Texas bubble.

Some very sound Whigs regret that in your Texas letter you did not leave a door open for annexation at a future time and when present obstacles may be removed. I have maintained that you say not a word to preclude your support of that measure when it can or shall be properly introduced; on the contrary, that your known influence with Mexico, and habitual deference to the will of the people when fairly ascertained, are the very considerations which should satisfy the friends of annexation that you, of all other men, are the most certain to accomplish it and at the same time preserve the national honor.

Many Democrats admit that the Whigs would probably have obtained the vote of Alabama in a contest with Mr. Van Buren, obnoxious as he was to them on account of his Texas letter. They boast, however, that Polk and Texas will sweep the State by an increased majority. That result, however, is among the uncertainties of the future. The Whigs will use all fair and manly exertions to prevent it.

Pardon this communication: it is made with entire respect, upon authority of the acquaintance I had the honor to form with you at Mobile and to cultivate on the boat to Montgomery.

With profound esteem, your obedient servant,

STEPHEN F. MILLER.

Hon. HENRY CLAY.

On the 15th July, a letter was received from Mr. Clay, which was published in the *Monitor* two days afterward. It may also be found in the volume of "Private Correspondence of Henry Clay," edited by Calvin Colton, LL.D., p. 490:—

ASHLAND, July 1, 1844.

MY DEAR SIR:—I received and thank you for your friendly letter and the copy of the *Monitor*. You have justly conceived my meaning when I referred, in my Texas letter, to a considerable and respectable portion of the Confederacy. And you might have strengthened your construction of the paragraph by reference to the fact that at the date of my letter the States of Ohio, Vermont, and Massachusetts had almost unanimously declared against annexation, the Legislature of Georgia had declined to recommend it, and other States were believed to be adverse to the measure. As to the idea of my courting the Abolitionists, it is perfectly absurd. No man in the United States has been half so much abused by them as I have been.

I consider the Union a great political partnership, and that new members ought not to be admitted into the concern at the imminent hazard of its dissolution. Personally, I could have no objection to the annexation of Texas; but I certainly would be unwilling to see the existing Union dissolved or seriously jeopardized for the sake of acquiring Texas. If any one desires to know the leading and paramount object of my public life, the preservation of this Union will furnish him the key.

From developments now being made in South Carolina, it is perfectly manifest that a party exists in that State seeking a dissolution of the Union, and for that purpose employing the pretext of the rejection of Mr. Tyler's abominable treaty. South Carolina, being surrounded by slave States, would, in the event of a dissolution of the Union, suffer only comparative evils; but it is otherwise with Kentucky: she has the boundary of the Ohio extending four hundred miles on three free States. What would our condition be in the event of the greatest calamity that could befall this nation?

In Kentucky the Texas question will do the Whig cause no harm. I am glad to perceive, in the proceedings of the Clay Club at Tuscaloosa, a similar belief expressed as to Alabama. It was a bubble blown up by Mr. Tyler in the most exceptionable manner, for sinister purposes; and its bursting has injured nobody but Mr. Van Buren.

Retaining an agreeable recollection of the pleasure which I derived from forming your acquaintance last spring, I remain

Your friend and obedient servant,

STEPHEN F. MILLER, Esq.

H. CLAY.

II.—DEFEAT OF HENRY CLAY FOR THE PRESIDENCY.

(From the *Monitor*, November 20, 1844.)

MR. POLK ELECTED PRESIDENT.—Contrary as it may seem to the fitness of things, the people in the United States have chosen JAMES K.

POLK for President. We confess that this result has greatly disappointed us; but it is unnecessary to complain. We admit the right of the majority to govern. The people have decided, and we bow to their will.

Mr. Clay stands in no need of sympathy. No office could increase his fame. As a statesman of enlarged and liberal views, comprehending the whole interests of his country, present and prospective,—as an orator of the first grade,—as a man of generous and noble impulses, of sound judgment, of unbounded goodness of heart, of great frankness and integrity,—he contains more in his character to secure civic renown than any American, living or dead. He has done more for his country. This defeat is a trifling consideration to him personally. If he have the ambition charged upon him by his opponents, he had already achieved enough, and his name was sufficiently known throughout the world as a statesman, patriot, and orator, to content the loftiest aspiration. His remark, years ago, in the Senate of the United States, that he had rather be right than be President, is consecrated by events. For pursuing the course he believed to be right, and which was calculated to advance the prosperity and honor of this country, he has been defeated by a combination of influences alike discreditable to the national character and destructive of the best guarantees of republican government.

The people have been deceived, not only by the calumnies heaped without measure upon Mr. Clay, but as to the principles of Mr. Polk. No Democrat who has the least regard for his character can deny that, in Pennsylvania, New Jersey, and other tariff States, Mr. Polk was represented by his supporters as the decided friend of protection to American industry, while at the South they held him up as utterly opposed to protection and in favor of free trade. On the subject of Texas, the people of the South were called upon to vote for him because he was in favor of *immediate* annexation, regardless of consequences; while at the North his partisans declared that he was in favor of annexation only at such time as it could be effected without war and national expense. A man* who voted against the treaty, and is opposed to the acquisition of territory to the United States with slavery attached, identified himself, in the gubernatorial canvass of New York, with that very question, and secured the election of Mr. Polk.

By enlisting foreigners on their side through the darkest frauds ever practised in a free Government, Democratic leaders have come into power. The question will probably arise whether this Government is to be controlled by the native population, or by rabble foreigners, many of whom are from the lazarettoes and jails of Europe. It is not to be disguised that the most disorderly, profligate, and dangerous classes in our large cities are ignorant foreigners, who, beguiled by false ideas of liberty, think they are privileged to follow their unregulated passions. Far be it from us to say that all who come to our shores are of that description. Thousands are as upright, intelligent, and exemplary as any citizens we have, and would expend their lives and fortunes in defence of their adopted country. But this is not the time to pursue the subject.

The Whigs as a party are struck down only to recover with new strength. They will never despair of seeing this country in better hands and governed by wiser measures than those to which it has to succumb for a period. Mr. Polk will have a difficult path to tread. We hope that his

* Hon. Silas Wright.

administration may prove the very reverse of what we anticipate. He is beset by his clan of "spoilsmen," who, like hungry wolves, will rush for his patronage, and cry for more. He must repeal the tariff, to satisfy South Carolina; and he must let it alone, to justify the expectations of Pennsylvania. He must admit Texas *immediately*, or prove false to the South and his solemn pledges; and he must let the subject alone, to harmonize the Northern Democracy and perhaps prevent a dissolution of the Union. He must reduce the public expenditures, to fulfil electioneering promises; and he must increase them, for the benefit of many of his starved followers, whose incentives to exertion in the Democratic cause had no other basis. He must revive the Sub-Treasury, to carry out his financial policy; and he must avoid it, from dread of explosion. He must employ the State banks as depositories of the public money; and he must have nothing to do with them, lest he violate the fundamental maxim of Democracy of divorcing the Government from the banks.

Now that Mr. Polk is elected, his measures ought to be fairly judged, though we expect nothing good. His history as a partisan justifies the opinion, in advance, that, while he is nominally President of the United States, he will be in fact only President of the Democratic party. Whatever can strengthen that party will be preferred to the interests of the main body of the people for whose benefit the Government was created. Proscription will be carried out in full. Not a Whig need expect to remain,—if, indeed, one can be found in office. Whatever comes, we have the consolation to know that the Whigs have acted like honest men and true patriots. Their fall has been under a leader who has their entire confidence. They have never resorted to personal epithets to injure Mr. Polk. His character as a man has never been assailed. Though not a shade purer than that of Mr. Clay, it has been held sacred, as having nothing to do with the great issue before the people. The Whigs are too honorable, they set too high value upon the social relations, to stoop so low as to calumniate the private character of an opponent. In his retirement Mr. Clay has nothing to regret. No murmur will escape his lips. His country is the greatest sufferer by his defeat.

III.—SIGNS OF REVOLUTION IN EUROPE—1847.

(From the Monitor, September 21, 1847.)

PROSPECTS IN ENGLAND AND FRANCE.—Every arrival brings evidence that the monarchies of Europe will soon be shaken to their foundations. The people of Great Britain begin to feel and manifest their power. The late famine has exhibited in such a strong light the disparity between the privileged and laboring classes, that the latter, as four to one, indulge opinions which, strengthened by the example of republican America, must ultimately lead to a change for the better. They will demand—

1. An extension of suffrage. The present system permits only one in seven of male adults in England to vote. A property-qualification is required. Not only this: the few who vote dare not exercise their own judgment, but do the will of their landlords, who hold them to a strict account, and turn them out of possession if they happen to vote contrary to their wishes. This is revolting to all notions of freedom, and should not be tolerated by any people who have to support government. The duty of the latter is to preserve, instead of destroying, the natural rights of individuals, so as to conduce most to their happiness.

2. A change of land-titles. The law gives to the eldest of each family all the real estate, and cuts off the younger members from the inheritance. This has created the overgrown aristocracy. Holding all the land, with slight exceptions, they exact oppressive rents in order to maintain their splendid establishments and roll in luxury. If they would live plainer, yet grand enough for all rational purposes, those who cultivate their lands would be permitted to retain more than a bare subsistence of potatoes for their families. Yet the evil does not stop here. Work and pay ever so enormously, a tenant can never acquire the soil, because it cannot be alienated. The crown must have a brilliant retinue to uphold its dignity and show off its power, and this *tail* of royalty must be composed of nobles and aristocrats, who in their turn extract from labor its last drop of blood to pamper their highnesses. The people will soon move in such masses on Parliament to abolish this unjust system that the demand will not be fruitless. Kindred of equal degree will share the realty, and thus cause a proper distribution.

3. Separation of Church and State. As Christianity is a matter of conscience with each individual, the greatest liberty should exist in worship. When Government assumes to declare a particular Church, and to tax the people of all denominations for its support, it is trespassing on the fundamental rights of mankind. Responsible only to his Maker, man is free to interpret His will and to judge what is required. No established sect or form of worship should be forced upon him. As a moral agent, he must know his duty and perform it. Much good may be done by the proprieties of a State Church; but, as religion consists of something else than external order, every person should be left to his own standard.

We are no enemy to the Church of England as a branch of the Christian body. On the contrary, we venerate its faith and ministry and its high moral tone. We object only to the principle of compelling the people to support it. Every Church should be free from the civil power, and every man free to sustain what Church he pleases. This creed the English people desire in practice, and they will have it. The same remarks apply to all other countries with an established Church. The Constitution of the United States, in this particular, will guide the nations of the earth and ultimately secure religious freedom to all.

The increase and cheapness of communication with this country, and the knowledge the people of England are gaining of each other by rail-roads, assure a contest. We believe that a liberal spirit is in the Commons, and when it whispers the Peers will give in, to avoid a storm on their castles. The queen is too benevolent and gracious to refuse the amelioration her subjects so greatly need.

With regard to France the case is similar. Grievances do exist with which we are very little acquainted, and the people are moving for redress. Songs of Liberty on the faubourgs of Paris begin to reach the ear of Louis Philippe. He has often escaped assassination, and is probably in constant dread. Forgetting the principles of July, 1830, which brought him to the throne, he has been amassing wealth for himself and providing royal alliances for his children to govern Europe. The volcano may possibly be smothered until his death,—which must happen in a few years at most, as he is far advanced in age. On the question of a successor, Young France may reconstruct the political fabric with a full recognition and guarantee of popular rights. Mighty events are rolling on, to be witnessed by the present age.

IV.—GENEROSITY AND JUSTICE IN POLITICAL WARFARE.

(From the New Orleans Commercial Times, October 24, 1848.)

THE PRESIDENTIAL ELECTION.

In a few weeks the fifteenth balloting for President of the United States will take place before the sovereign tribunal appointed by our glorious Constitution to exercise the high prerogative of self-government. Of the electors who voted for Washington in 1788, sixty years ago, and in 1792, perhaps not one is to be found among the living. Like the revered "Father of his Country," they have all descended to the tomb. Of the ten Chief-Magistrates of the Union since that time, seven have closed their earthly career: J. Adams, Jefferson, Madison, Monroe, J. Q. Adams, Jackson, and Harrison live only in fame, while Van Buren, Tyler, and Polk yet mingle with their fellow-citizens in all the courtesies due to long service in high position.

The present is a suitable time to commune frankly with our readers on the subject of the approaching election and the respective candidates, from whom a choice is to be made for the most exalted and responsible office in the world. For we consider the royal dynasties that rule most other countries in hereditary succession—without regard to attributes worthy of a trust which, for good or evil, has no superior in human affairs—as far below the first office in our Republic in true dignity and honor. While advancing this opinion, we are, nevertheless, very remote from man-worship, either while the mantle of power is gorgeously worn by its possessor, or after he has transferred it to other hands in obedience to the will of the people. A king or a president is no better than other men: sometimes, indeed, he is inferior in all the qualities which properly command veneration and love. Merit is the only genuine standard after all, and of right should prevail in all the competitions for public honor; yet so imperfect is man, so warped is he by prejudice or interest, that the laurel is not always bestowed wisely and justly. To other relations of life the remark applies with equal cogency. Success and merit, though of twin-extraction from a pure theory of morals, have very little affinity in the contests and awards of fortune. The noblest minds of the world are often crushed under the weight of their own sensibilities and of adverse conditions. A passage in Gray's "Elegy in a Country Churchyard" is a philosophical commentary on life which should deeply impress us all, and inspire moderation and charity in our bosoms:—

"Some mute, inglorious Milton here may rest,—
Some Cromwell, guiltless of his country's blood."

When we recall the memory of our departed benefactors, or of those friends who stood by us in sunshine and in storm, we are pained by the recollection of any unkindness by word or deed which escaped us by accident or inattention. If we had them back again, how carefully would we avoid the word, or make atonement! With similar feelings we should regard our public men. Their high stations do not render them callous or indifferent to censure and vituperation. A line or word launched in cruelty often inflicts a wound which bleeds not the less because inwardly.

The country has before it two distinguished citizens, who have been nominated for the Presidency,—one by a Convention held at Baltimore, representing the Democratic party, and the other by a Convention held

at Philadelphia, representing the Whig party of the United States. General Cass, a statesman and a diplomatist, is the standard-bearer of one division, and General Taylor, illustrious for his military deeds, is the rival champion. As to the latter candidate, his friends claim for him what the amplest proof has established,—a clear intellect, and sound practical judgment.

As our journal is wholly disconnected with politics, we of course avow no preference for either candidate. Both are patriots; and, let the scale of popular favor turn as it may, either of them will, no doubt, administer the government to the best of his abilities, with an eye to the public good. This impression is so fully warranted by the past career of both, that, even if we felt at liberty to take sides in the canvass, we should have to seek other weapons than those which are (we regret to see) too commonly used,—bitter personalities, and the most illiberal and offensive construction which can possibly be placed on every act and deed of the candidates by their respective opponents. We could not afford to employ such instrumentalities to defeat General Taylor or General Cass. Their public history is not so limited as to preclude a search for material of legitimate controversy on creeds or measures which they severally advocate or oppose. In our reflections on the temper and unfairness of parties one toward the other, in mutual excess, we are happy to except a portion of the political press and of the speakers and writers on both sides. Many of these are calm and dignified in their efforts to serve the cause with which they are identified. Would that their example was more prevalent!

Our main object in this article is yet to be stated. We have said enough in dispraise of certain habits of political warfare to show our notions of propriety on the subject. Perhaps we shall not be thanked by every one for our candor herein. We regard not this, however, in the performance of what we consider a duty to public intelligence and to the sound, conservative elements of our happy institutions.

Thus far we have named only General Cass and General Taylor as candidates for the Presidency, passing over Mr. Van Buren, who seems, however, to be quite earnest in his renewed aspirations for the White House, which he occupied one term as the heir of General Jackson. But we see no very strong reasons for coupling Mr. Van Buren with the contest at all,—as he is, notoriously, the forlorn leader of the forlorn hope of a forlorn faction at the North. If he receives the vote of a single State, or of a single Elector, he will surpass our expectations in his favor. Even of him, cheap as he has made himself in public estimation, we would here avoid saying any thing very harsh,—nothing that could detract from the reputation gained by him in former days.

The moral to be studied in choosing between General Cass and General Taylor is this: if the first be beaten, he will without doubt attribute his defeat to misrepresentation about Hull's surrender, extra pay, harbor and internal improvements, the Wilmot Proviso, &c. &c.; and if the latter be vanquished,—for the first time in his life,—he will regard his failure with a similar conviction, relative to his moderately-fixed opinions on political subjects, his silence on the Wilmot Proviso, &c. Cloud not the last days of either of these distinguished men by unjust imputations: rather let the time now remaining until the election be improved in doing justice to both of them, by a loftier tone of discussion than has generally prevailed in the canvass heretofore.

V.—APPLYING FOR AN OFFICE.

The object of the author in publishing his *adventures* for office is to console the great number of applicants who, like himself, showed *excellent papers*, but were refused employment; and another consideration is to deter, if possible, reliance on the Government, in the belief that we are entitled to its patronage because we desire it. The several communications will sufficiently explain. That to the Editors of the *National Intelligencer*, referring to one dated 5th March, might be so changed as to substitute the letter of May 29, 1849, to the Secretary of the Interior, which in fact was the one intended, as follows:—

CAVE SPRING, FLOYD COUNTY, GEORGIA, May 29, 1849.

SIR:—With respectful solicitation, I submit the enclosed vouchers from Gov. Fitzpatrick, of the U. S. Senate, from Hon. H. W. Collier, Chief-Justice of the Supreme Court of Alabama, and from Hon. J. J. Ormond, who for ten years preceding 1st January, 1848, was an Associate Justice of the same court: also, the copy of a letter from Prof. De Bow, of the Chair of Political Economy in the University of Louisiana. These represent my qualifications, such as they are, for an office in which system and labor are necessary.

In support of these expressions in my behalf, I beg to enclose two articles in the New Orleans *Commercial Times*, from my pen, which show something of my habits of illustration in figures, and the patience with which I construct tables. The article on the "Productions and Capital of the United States" was copied in the *National Intelligencer* and *Union*. I merely specify these journals because they are published at the seat of Government.

I desire to reside at Washington. My aim will be, if appointed to an office in either the Patent, Indian, Land, or Pension Bureau, or any other in which my services may be accepted by the administration, to devote myself to duty. Chief-Justice Collier having alluded to my "early life," I think it proper to say that I am in my forty-fourth year.

Allow me to ask the favor of an early answer,—stating whether you are prepared now, or probably will be soon, to grant my application. I can at any moment repair to such post as may be assigned me. My address is "Cave Spring, Georgia," where I am temporarily residing.

With high respect, your obedient servant,

STEPHEN F. MILLER.

HON. THOMAS EWING,
Secretary of the Interior.

[ENCLOSURES.]

WETUMPEA, ALA., May 7, 1849.

His Excellency ZACHARY TAYLOR, President of the United States:

SIR:—Stephen F. Miller, Esq., is, I understand, an applicant for a clerkship in the Home or some other Department at Washington, or perhaps some consulate agency.

While Mr. Miller resided in this State, some two years since, I knew him well, and state with pleasure that I have always regarded him as a sober, industrious, highly-accomplished, and worthy gentleman. His business-habits are of a high order. For any of the stations above alluded to, I consider him eminently qualified, and feel assured he will discharge the duties of such with credit to himself and usefulness to the country.

I have the honor to be, with respect, your obedient servant,

BEN. FITZPATRICK.

TUSCALOOSA, May 10, 1849.

I have been acquainted with Maj. Stephen F. Miller thirteen or fourteen years, and consider him a gentleman of highly-respectable intellect, a writer of good taste, with an active, inquisitive mind. He is honorable in his bearing, cherishes just notions of moral propriety, and performs labor with the pen promptly, with ease and neatness.

Maj. M. edited some years the "Independent Monitor" of this place, with an ability unsurpassed by any Whig journal in Alabama. He would make a good clerk in either of the Departments at Washington, or secretary of legation to some foreign court, or he would represent the Government as a consular agent advantageously to the nation and creditably to himself. It gives me pleasure to recommend him for an appointment such as I have indicated.

I omitted to mention that in early life Maj. M. was admitted to the bar and elected by the Legislature of Georgia Solicitor of one of the judicial circuits of that State. He also practised law after his removal to Alabama.

HENRY W. COLLIER.

TUSCALOOSA, May 15, 1849.

SIR:—Although I have not the honor of an acquaintance with you, I take the liberty of addressing you in favor of a man who, from his previous labors in behalf of the Whig party, as well as on the score of his own merits, is entitled to the aid and patronage of the present administration. The person alluded to is Stephen F. Miller, formerly editor of the *Independent Monitor* of this place. In this position for many years he upheld and sustained the Whig party in this State, and made his paper one of the ablest Whig journals in the South. Mr. Miller is a man of unquestionable talents, of great industry and strict integrity. His business-qualifications would render him useful in almost any of the Bureaus in your Department; and I have therefore thought it proper to address this letter to you.

If you can find a situation for him, you will gratify the Whig party of this State, and, I have no doubt, obtain very efficient aid in any matter you may intrust him with.

Very respectfully,

J. J. ORMOND.

Hon. THOMAS EWING.

OFFICE COMMERCIAL REVIEW, NEW ORLEANS, January 30, 1849.

It affords me very great pleasure to bear testimony to the industry, abilities, and intelligence of my friend Stephen F. Miller, formerly of Alabama, but who has been residing nearly a year in New Orleans.

Maj. Miller assisted me for a long time in the editorial charge of the *Commercial Review*, and during my absence from the city the whole management and control of the work devolved upon his shoulders. He has from time to time contributed very able articles to its pages, which have received distinguished notice. I was delighted with the connection of Maj. Miller with the *Review*, and would have prolonged it to any period, had not the pecuniary difficulties of the work put it out of my power to offer him any thing like an adequate consideration for his services.

I regard Major Miller as one of the most patient, pains-taking, and intelligent statistical writers in the Southern country, which his articles in my work, as well as in the *Commercial Times* of this city, published within the last three months, most clearly evince.

In taking leave of my friend, I cannot but express the high estimate in which I hold him as a gentleman and a man of probity and honor, in every sense of those terms, and wish him health and prosperity in all the future.

J. D. B. DE BOW,
Editor Commercial Review.

The author wrote another letter to Mr. Ewing, as follows:—

CAYE SPRING, GEORGIA, June 5, 1849.

SIR:—In addition to the testimonials with my letter of 29th ult., I enclose a note, received since, from the Hon. Henry W. Hilliard, late a Representative in Congress from Alabama.

Most respectfully, sir, your obedient servant,

STEPHEN F. MILLER.

[ENCLOSED.]

It affords me sincere pleasure to learn that Stephen F. Miller, Esq., is willing to be employed in one of the Departments at Washington. He is known to me as a gentleman of fine abilities and great worth, and would doubtless prove himself to be a valuable acquisition to either of the Departments in which he undertook to do service.

Mr. Miller formerly resided at Tuscaloosa, then the seat of Government for this State, and distinguished himself as editor of the *Monitor*, a sterling Whig paper. He has, I believe, for some time past been engaged in assisting Mr. De Bow in the conduct of the *Commercial Review*, well known as an able and valuable publication.

I should be much gratified to hear of his success in finding some employment agreeable to him.

HENRY W. HILLIARD.

(From the National Intelligencer, August 6, 1853.)

—, GEORGIA, July 26, 1853.

MESSRS. GALES & SEATON:—The opinion is generally entertained that to hold office is a great blessing,—that a commission signed by the President of the United States is honor enough to compensate for any sacrifices or suffering that may happen. Will you admit a voice of warning into your columns for the benefit of my countrymen?

Previous to the reign of President Jackson, while appointments were

cautiously made, and bestowed for merit alone, there was some *éclat* in a commission; but after the "spoils" doctrine obtained, when friends had to be rewarded and enemies punished in the distribution of offices, the previous high moral tone of the country dwindled, men of virtue and capacity were cast aside, and the blustering politician or the bar-room bully was made the depository of Executive confidence. The evil increased under Mr. Van Buren's administration, and was so deeply rooted in public affairs that the death of his successor, the lamented Harrison, was hastened by the horde of office-seekers who rushed upon him as lawful prize, more greedy from the long exile they had suffered from treasury-comforts. I was a Harrison man, rendering the best service in my power for his election; but I never applied to him nor to Mr. Tyler for office. When Mr. Polk came into the Presidency, of course I was disqualified for all public employments by the support I had given the immortal Clay in the contest. After the next election my disability ceased, and, with a keen appetite, I knocked at Gen. Taylor's door for a public crumb, never having tasted that kind of food, but believing it to be delicious.

Taking an early start, that none might be ahead of me, on the 5th day of March, 1849, I forwarded to the Secretary of the Treasury certain papers:—

1. A letter, written by myself, requesting a clerkship in which I might be useful from long experience in accounts and in the construction of tables, many of which, intricate and laborious, I enclosed in printed slips from the newspapers as a specimen. I also claimed practice in composition, so as to prepare official letters.

2. A letter from a gentleman who is now the Governor of an adjoining State, informing the President that I was trustworthy and would make a good consular agent or secretary of legation.

3. A letter from an ex-Governor and Senator in Congress, opposed to me in politics, yet cordial to my character and qualities.

4. A letter from a justice of the Supreme Court, strongly urging my qualifications, and dwelling on points of character which propriety forbids me to name.

5. A letter from a Representative in Congress, who had served the country in a diplomatic station abroad, expressing his satisfaction that I had consented to take office, and warmly soliciting the President in my behalf.

6. The opinion of a professor of political economy that I was competent and faithful in arranging tables of finance, commerce, and other statistical matter, and in illustrating any subject connected therewith.

With these testimonials I felt certain of success. "Did any man ever present better *recommendations*?" quoth I to myself. For two long, tedious months I expected by every mail a letter from the Secretary as the very man he wanted, to be a sort of chief among the green subordinates. No such document came! I then turned my batteries against the Secretary of the Interior, and gave him copies of all that I had sent to the other Department. *Neither of these officers ever condescended to reply to me*; and, with mortified spirit, I brooded over the "ingratitude of republics," but comforted myself with the suspicion that the Secretaries were poor judges of merit, or that other applicants had made out equally as good cases on paper, and that local considerations had turned the scale in their favor. Thus I knocked at the door of the Government, and thus

was it not opened to me. I am now prepared to say that the "grapes are sour," and shall give my reasons.

From March until October, 1849,—more than six months,—I was in alternate moods of expectation and despair in regard to office. Perhaps the Secretaries were so busily occupied that they had not read my letters. Then I was certain they had examined them, as in duty bound. I awoke from my slumber,—from office-reverie,—asked no favors from the President or his Secretaries, and, casting myself in another direction for employment, I now rejoice that my application was disregarded. And here I am at the point I desire to dwell on, in order, if possible, to reconcile others to a private life, as the most successful and happy.

The idea that a clerkship in one of the Departments is a situation of value in any sense is a gross error. The income will hardly pay expenses. If the incumbent has a family, the house-rent, furniture, servant-hire, marketing, and the style of dress required to figure in society and to maintain *caste* at Washington, will more than sponge up a thousand or twelve hundred dollars, leaving him deeply entangled in debt, besides the risk of being dismissed at every change of administration. The utmost he can do while toiling for the Government is to feed and clothe his family: not a dollar left as a foundation for other business.

It may be replied by some that the opportunity to see the great men of the republic and of foreign countries who collect officially at Washington, the privilege of hearing the debates in Congress, of attending the President's levées, of examining the contents of the Patent-Office, of gazing at the Washington Monument and the Smithsonian Institute, of seeing the elegant styles, the refinement, the nabob vanity and extravagance of ambassadors, the beautiful and accomplished ladies,—all forming a school to mould and perfect character on a superior scale,—are objects worthy of any hazard or ambition. Office-seekers believe the delusion, and struggle for it. I pity them,—many capable and well-meaning, who might succeed in the business-walks of life. I look upon a man who depends on office for his support as having a very poor title to the good things of life. The passion for office is debasing in its effects. It soon begets an artificial behavior, a trimming policy, and, more to be regretted than all, principles contracted and selfish, absolutely grudging success to others. Of course, this description does not apply to every man who troubles the President or the Heads of Departments for office; yet it is nevertheless true in the main.

I was shocked to notice, some months ago, that, of the six hundred clerkships at Washington, (equal to about three for each Representative in Congress,) each member of the dominant party claimed the right to supply three from his district. This was the party-drill to carry out the maxim that "to the victors belong the spoils." The Government, as conquered plunder, to be sliced into rations for party-cormorants! Think of it, and blush with the pride and dignity of an American patriot!

Instead of a system thus corrupting to the public morals, it ought to be the rule that all competent and faithful officers below the Cabinet and principal Bureaus should be retained under each successive administration without inquiring after the political creed of any of them. If they all came from two or three adjoining States, or even belonged to the District of Columbia, it should be no objection. So the ripe qualification and the tried integrity were secured, no other test should be adopted. The Government would become purer and the people essentially benefited by

such a condition of things. May we not hope, discouraging as the prospect is, that some future President will have virtue and courage enough to set the example in this particular?

President Pierce has been annoyed almost to death by office-adventurers, and it would have relieved him of the most disagreeable of his official cares had the course I suggest been observed by his predecessors, so as to have the moral sanction of a law when he came into power; for this very question of "spoils" has subjected his character to more criticism than any other branch of his administration. All just-minded men see the evil, and ought to stand calmly outside the ring in which the gladiators over the carcass of victory are intent in signalizing their brute courage with the same fierceness and with about as much glory as combatants at a Spanish bull-baiting. Let it rather be a reproach to ask office, so that the President may have full liberty to select his own agents in executing the high trust for which he must respond to the people.

[Had our worthy correspondent seen the bushels of letters and recommendations similar to his own which loaded down the tables of the Secretaries, (as they do the tables of all Secretaries on the accession of every new administration,) he might well have supposed it possible that his were not read by anybody but the clerk to whom was assigned in every Department the duty of endorsing and filing them away for reference. His reflections on the exercise of the appointing-power, on office-seeking, and the injuries to individuals and to the public service inflicted by prescriptive rotation, are very correct, but not as strong as they might justly be.—EDITORS.]

VI.—THE SOUTHERN QUESTION, 1850.

(From the Georgia Journal and Messenger, August 21, 1850.)

REMARKS OF STEPHEN F. MILLER, ESQ., ON THE SOUTHERN QUESTION,

At a Meeting of the Citizens of Macon County, Ga., at the Court-House in Lanier, August 8, 1850.

MR. CHAIRMAN:—I know that public feeling is highly excited on the subject of African slavery,—the North insisting to exterminate, and the South anxious to preserve, this institution. To a fairly-disposed mind seeking truth and justice, the North must appear vitally in the wrong. She alone is responsible for the agitation and its consequences. With regard to the convictions of duty under which encroachment is made by one side and repelled by the other, I have only to say that the South stays at home in this unhappy strife. The owner of a castle has a moral and legal advantage over his adversary who trespasses. I leave the idea to be applied when the proper time for action shall arrive.

Without engaging in declamation, I propose to submit some facts which I hope may tend to soften sectional asperities and to show the folly of dissolving the Union.

On the 4th of July, 1776, domestic slavery existed in all the American colonies that declared independence of Great Britain. Of the thirteen original members of the Confederacy, seven have abolished it. Nine

slaveholding and eight non-slaveholding States have since been added to the Union. The following table shows the slave-population in 1776:—

1. Massachusetts.....	3,500
2. Rhode Island.....	4,373
3. Connecticut.....	6,000
4. New Hampshire.....	629
5. New York.....	15,000
6. New Jersey.....	7,600
7. Pennsylvania.....	10,000
8. Delaware.....	9,000
9. Maryland.....	80,000
10. Virginia.....	165,000
11. North Carolina.....	75,000
12. South Carolina.....	110,000
13. Georgia.....	16,000

Total number of slaves in 1776..... 502,102

African slavery would have existed to this day in the Northern States, had it been sufficiently profitable; but, as the climate was too cold for cotton, rice, and sugar, slave-labor was discarded: it did not pay.

If concession be a merit, the South set an early example. She yielded two-fifths of her slaves in 1787, in apportioning Representatives; whilst the North retained every person of color within her limits as a basis of power in Congress. This fact is an admission of property. What else could have induced the South to assent to this classification, or the North to claim the abatement, in the number of Representatives under the Federal Constitution? The subject produced much feeling between the two sections, and led to the first *compromise* in our political system.

As to the propriety of slave-labor the North has no right to judge. She may cherish manufactures, run ships, cultivate orchards, or do whatever else she pleases within her own sphere, and the South says not a word; but when she turns champion of a false and misguided humanity, and takes upon herself the guardianship of the South, well may we resist the usurpation. For the last fifteen years we have protested in vain. From a few crazy memorials to Congress, Abolition has swelled to its present hideous bulk.

With Louisiana, we acquired from France in 1803 that immense region extending from the Mississippi to the Rio Grande, then a slave-country. When Missouri applied for admission into the Union in 1820, the North objected because she recognised slavery in her Constitution. This drew the line of thirty-six degrees thirty minutes to quiet the troubled waters, and was the first exercise by Congress of the power to legislate on slavery under the Constitution. After the treaty of 1819 with Spain, our Western limits were greatly contracted. Beginning where Virginia and North Carolina connect on the Atlantic coast, and thence westward to the 110th degree of longitude, the Missouri parallel, crossing twenty-five degrees, formed the barrier to slavery in all States north of it and west of the Mississippi River. Since then we have added twenty-two degrees to the Pacific, making about three thousand five hundred miles from ocean to ocean.

For comparison, I submit a statement showing the relative strength of the North and South in extent and population:—



FREE STATES.			SLAVE STATES.		
	Square Miles.	Pop.		Square Miles.	Pop.
1. Michigan.....	56,243	212,267	1. Texas.....	325,520	
2. Illinois.....	55,405	476,183	2. Missouri.....	67,380	383,702
3. Wisconsin.....	53,924	30,945	3. Virginia.....	61,852	1,239,797
4. Iowa.....	50,914	43,112	4. Florida.....	59,268	54,477
5. Pennsylvania.....	47,000	1,724,038	5. Georgia.....	58,000	691,392
6. New York.....	46,000	2,128,921	6. Arkansas.....	52,198	97,574
7. Ohio.....	39,964	1,519,467	7. Alabama.....	50,722	590,756
8. Maine.....	35,000	501,793	8. Mississippi.....	47,147	375,651
9. Indiana.....	33,809	685,866	9. Louisiana.....	46,431	373,306
10. New Hampshire...	8,030	284,574	10. North Carolina...	45,509	753,419
11. Vermont.....	8,000	291,948	11. Tennessee.....	44,000	829,210
12. Massachusetts.....	7,256	737,699	12. Kentucky.....	37,680	779,828
13. New Jersey.....	6,851	375,651	13. South Carolina...	28,000	594,398
14. Connecticut.....	4,750	352,411	14. Maryland.....	11,000	470,019
15. Rhode Island.....	1,200	108,830	15. Delaware.....	2,120	78,085
Total.....	454,340	9,783,710	Total.....	536,327	7,311,614

These tables include all persons whatever, white and black. Of the number in the South, 2,486,226 are slaves, according to the census of 1840. An enumeration is now in progress which we presume will show an increase of about thirty per cent. in the entire population.

Whilst conferring together on the blessings of the Union, let us briefly glance at our resources, that our adversary may take warning as well from what he will lose as from what we shall continue to possess in the event of dissolution.

The cotton-crop of the United States for the last ten years has averaged 2,100,000 bales. To raise this quantity, let 500 pounds in seed to the acre, five bales to the hand, 450 pounds to the bale, and seven cents per lb., be assumed in the estimate. We then have

7,560,000 acres in cultivation, worth \$10.....\$ 75,600,000
 420,000 slaves in cotton-fields, " \$600..... 252,000,000

Capital invested in cotton..... \$327,600,000

With the land and force here stated, the South is able to export annually 2,100,000 bales, worth \$66,500,000, an interest of nearly twenty per cent. Out of this, however, expenses of every kind have to be paid, reducing the actual gain probably to eight per cent. This we think is about the medium of the cotton-growing States. Perhaps it may slide as low as five per cent. Of course there are exceptions; some planters realizing more and others less, according to their skill and opportunity. Besides the choice hands assigned to cotton, the remaining 2,000,000 of slaves in the South may be averaged at \$400, making a total of \$800,000,000 of that kind of property employed otherwise. The cotton-mills, railroads, merchandise, and shipping of the North may be more productive, but are not equal in magnitude of value, or more essential to her well-being. In addition to cotton, two other important articles produced exclusively by slave-labor ought to be mentioned,—sugar and rice. These crops are of the annual value probably of \$20,000,000,—to say nothing of tobacco worth \$15,000,000 more, raised in slave States. Thus we have upward of \$100,000,000 annually produced by slave-labor for market, exclusive of provisions. For nearly all this stupendous yield and its multiplied exchanges the North is the carrier and commission-merchant, levying enormous profits on the South. In case the Union is dissolved,

Charleston, Savannah, Mobile, and New Orleans will be the importing marts for the South, instead of New York and Boston. Manufactories are already established and still rapidly advancing in the South. Our neighboring city of Columbus is the future Lowell. As a mere question of profit and loss, which party will suffer most by disunion?

To say that the North is jealous of our prosperity, or that she envies the ease in which she imagines we live, would perhaps be unjust. There may be some leaven of the kind fermenting the lump of abolition; but a majority of the Northern people have no such feeling. True, nearly all of them condemn slavery as an evil and desire its overthrow; yet they have sense enough to avoid interfering with it in the States where it exists. It has been reserved to fanatics and mock humanitarians to make themselves ridiculous by shedding tears for the *poor African*, of whose condition they know nothing. Could they behold the truth, the practical operation of slavery, they would at once admit that the Southern slave is happier, and far less tempted by his necessities, than the Northern white man who has to perform menial services for his daily bread. A just picture of the two classes would make even rabid Abolitionists blush for its absurdity.

Claiming for the South what is her due, let us render justice to the North. Her industry is beyond example, and worthy of all imitation. With streams locked in ice half the year, and a soil naturally rugged and barren, the five New England States, (exclusive of Maine,) not containing in the aggregate as many square miles as Georgia, are in a condition of great prosperity. Look at their public schools, their gigantic cities, manufactories, railroads, and navigation-interests! Would that we of the South had more of their energy and thrift, to realize the destiny within our reach! We are, nevertheless, doing sufficiently well to ask non-intervention with our affairs. When despairing to manage for ourselves, we will apprise the North of our extremity, and solicit its direction.

I now approach the main cause of excitement. The North aims to exclude the South from any share whatever in our acquisitions from Mexico. All the States have equal rights to this property, as they all contributed to obtain it. The fact is historical that the South did more than the North for the prosecution of the war; yet the South is proscribed,—not an inch of territory is left for her to set foot upon! Should this be so? Is it just?—or, rather, is it not robbery? Why not let us participate on equal terms? The North has madly vowed that we shall not, and it remains for the South to reply. The course most advisable for us to pursue under the circumstances is what we have met to consult upon.

There is a difference of opinion among our statesmen as to the fact whether slavery was abolished in the Territory at the time it was ceded by Mexico to our Government. Decrees have been referred to in support of the affirmative. Under the administration of usurpers, (for the Mexican Republic has rarely had any other sort of rulers,) various orders and decrees were made abolishing the form of slavery as it exists in the Southern States. Of the system of *peonage*—a much worse servitude, which they adopted—it is unnecessary to speak. It is far more abject and hopeless than its rival institution. For a small debt, a man is held all his life in bondage, toiling in vain to extinguish the tenure by which his liberty has been transferred by some heartless alcalde to a still more heartless creditor.

Let us notice the extent of country which forms the bone of contention between the North and the South. By a preceding statement is shown the area of the States. I now proceed to the Territories yet to be organized :—

	SQUARE MILES.
California and New Mexico.....	321,695
Nebraska	190,505
Northwestern	723,248
Total.....	1,235,448

The whole of this vast region lies north of 36° 30', except a fragment between Arkansas and Santa Fe, and about two-thirds of New Mexico and one-third of California, making in all some 200,000 square miles south of the Missouri Compromise. Were this the partition-line between slavery and non-slavery, the Free-Soilers, already having 341,463 square miles in Oregon, would possess 1,576,000 square miles of the public domain, (against 200,000 open to slaveholders,) an area equal to the whole thirty States of the Union! Is not this magnificent sea-room for the Free-Soil party to ride in under full canvass? In a path of a mile wide, it would belt the globe fifty times. To bring the comparison nearer home, the public territory north of 36° 30' is equal to twenty-three States of the size of Georgia, while that south of the line would form only three and a half such States! Here is seven to one in the distribution of common property between the North and the South! Even this share seems not to satisfy the North. She must have all. In the face of such pretensions, how shall the South act? Shall we submit quietly, shorn of our rights, or dissolve the Union in blood by the effort to maintain them? The issue must be decided wisely by Congress, or it will continue to disturb the harmony—nay, to jeopard the very existence—of the Union.

To prevent the charge of omitting the deficiency of soil in the free States, contrasted with the quantity in the slave States, as set forth in a previous table, I put the whole matter in a nutshell.

Account-current between the North and South.

	ACRES.
Free soil in fifteen States.....	290,477,600
Free soil north of 36° 30' in the Territories.....	880,640,000
Total free soil.....	1,171,117,600
Slave soil in fifteen States.....	599,243,520
Slave soil south of 36° 30'	128,000,000
	727,243,520
Excess of free soil.....	443,874,080
Proportion of free soil to each person in the United States....	58
Proportion of slave soil.....	36
Excess of free soil for each person in the United States.....	22

This calculation assumes that all south of 36° 30' in the Territories is slave soil. The fact, however, is not so. With the exception of about 40,000,000 acres between Arkansas and Texas, held under the Missouri Compromise, there is not an inch of slave soil in the public Territories. Within the States proper the proportion is about fourteen acres of free soil and thirty acres of slave soil, (including all Texas,) a total of forty-four acres to each person in the Union.

Of the plans submitted to Congress to adjust this sectional difficulty, that of the Senate, from the Committee of Thirteen, has acquired most notoriety. It embraces five distinct propositions:—1. To admit California with her Constitution inhibiting slavery, and with her pretended limits and rights of domain. 2. To establish Territorial Governments in Utah and New Mexico, without recognising or disavowing slavery. 3. To purchase from Texas her claim to a certain tract of 124,000 square miles, known as the Santa Fe country, in order to prevent all controversy as to title between Texas and the United States. 4. To amend the law respecting the delivery of slaves who have escaped to other States. 5. To abolish the slave-trade in the District of Columbia.

I shall not pretend to discuss the merits of this scheme in detail. It was no doubt intended to satisfy all parties, by offering a basis on which suitable legislation might be engrafted. As a peace measure, it had my approbation from the time it was reported. The non-intervention principle was clearly observed, as an index from the committee that Congress had no power to legislate on the subject of slavery in the Territories,—leaving the decrees of Mexico to abide a judicial test. I regret that the plan was not early adopted, with an amendment protecting whatever might be carried as property from the States where such property is recognised by law, and also reserving the vacant lands to the United States. The several features of the plan have been discussed with an ability and perseverance never exceeded in Congress. I have not time to dwell on them here, even were I qualified to do so to the advantage of my audience.

I object to the Missouri line because it admits the power of Congress to legislate on slavery, and in this view I deem it unconstitutional; yet, for the sake of peace, I am willing to accept it. The South is abundantly able to do without favors from any quarter, and even without justice from her abolition tormentors. She has made sacrifices for the Union, and will make them again. She has cotton-fields that furnish more than half in value of all the exports of the Union. Five or six little States, between parallels 30° and 35° north latitude, embracing about 230,000 square miles, control the money-markets of the world. The people of every nation in Europe are clothed by our staple. The South has a monopoly of the production, and she will continue to hold it to the end of time. The prosperity of the North is based on our cotton. Stop her *spindles* and she at once *dwindles*. The laboring poor will starve or feed themselves by pillage. We desire no such catastrophe to our Northern people,—I had almost said friends. We have all a common country,—a great and glorious country,—established in freedom by patriotic ancestors, who fought side by side at Bunker Hill and at Yorktown, at Saratoga and at Eutaw. The North has wronged us, but we love the Union; the North persecutes us, but we cling to the Union; the North is deluded and excites our compassion. When the clouds of fanaticism shall pass away from the Northern mind—when reason shall resume its healthy action—we may expect tranquillity. In the mean time let us prepare for the worst. Since this war of aggression commenced on our rights, we have argued, we have remonstrated, we have appealed in every form, to let the bitter cup pass from us. If they will force it to our lips, let us not say a word. Action to the emergency will be our response. I am tired of words. Speeches enough to make a hundred volumes have been let off in and out of Congress on this question. They do very little good. The North is sealed up in its error.

May it not be worthy of consideration whether the South is not released from her contract of Union by the flagrant breach of that contract on the part of the North? The South as yet has committed no breach. The North has. Will a proper tribunal hold the South to an engagement which has been violated by her partner? Courts of law recognise no such doctrine in the common transactions of men. There must be good faith observed by the party seeking to enforce a contract before he will be protected. May not a case in point be made in the Supreme Court of the United States to settle the question? A Southern man carries his slave to Utah and loses him by desertion or by some process of the territorial courts. In a suit to recover his property, the record will come up to the Supreme Court at Washington, where the validity of the Mexican decrees and the constitutionality of the act of Congress prohibiting slavery in the Territories may be tested after ample argument. Such a case is practicable, and would give repose to the country. If aggrieved by the decision, the South would yield without a murmur, because it would be the regular and final issue to establish, or rather to ascertain, a principle in our Government.

In the present aspect of things, are we without remedy under the Constitution? When we formed a partnership with the North for mutual benefits, the specific power was agreed upon that should govern. All free persons and three-fifths of the slaves were to form the basis of representation in Congress. This is in the bond. The Northern Shylock is whetting his knife and preparing his scales for the pound of flesh nearest the heart of the South. Like honest Antonio, we abide the bond. May not some good judge yet arise to award payment in terms which startled the fiendish Jew and caused him to throw down his knife in despair? The non-slaveholding States have a majority of about fifty in the House of Representatives. In the Senate the two interests are equal. This equilibrium, however, will soon be destroyed by the admission of California into the Union, and then we shall be forever at the mercy of the Free-Soilers. If they press us to the wall, they must answer the consequences.

When a young and rising general, Napoleon, dissolved the Council of Five Hundred in France, and took all power into his own hands, there was a beginning, and in fifteen years there was an end. If we dissolve the Council of Three Hundred at Washington, there will also be a beginning; but who can imagine the result? Europe bled, as nation fought nation, in the campaigns of Napoleon. Monarchs were exiled and lackeys enthroned; but in America what shall be the sorrows of a people whose republic was shivered by fraternal hands! From such perils may Heaven speedily deliver us!

Merely a word in conclusion. The Compromise of the Senate has been rejected. It may be that the non-intervention policy of the late President will be sustained by Congress, leaving the people of Utah and New Mexico to follow the example of California and apply at once for admission as States without territorial organization. In such event, of course the South will be excluded by the *republican form* of Government which will be presented to Congress. Although objecting to the irregularity with which our acquisitions from Mexico have been appropriated, and sincerely convinced that the Missouri line, as a partition of territory, is unjust to the South, yet for the sake of a higher good—this glorious Union—let us accept of 36° 30'. Should Congress adjourn without making some adjust-

ment, we of the South, rising above party, should take counsel together for our own preservation. Of the form of proceeding, and the necessity for action, in the last resort, the next Southern Convention will probably give some outline. The Union is large enough and strong enough for the whole North and for the whole South, and for our posterity in all time to come. We glory in the Union; we desire the Union to last forever. We will defend it at every hazard against foreign enemies. But we have a Constitution which guarantees equality of rights at home,—equality between the North and the South. It is our bond of Union. That CONSTITUTION is our shield. "With it, or upon it," is a Spartan motto, worthy of Southern adoption after the argument shall have been exhausted.

VII.—LABOR ESSENTIAL TO HAPPINESS.

(From the Southern Democrat, June 5, 1852.)

INTRODUCTORY LECTURE,

Delivered before the Oglethorpe Lyceum, at the Academy, on Tuesday evening, June 1, 1852, by STEPHEN F. MILLER, Esq., President of the Lyceum.

LADIES AND GENTLEMEN :—To begin is half the difficulty of any enterprise. Whatever the toil or vexation, some good influence, advantage in some form, will result. Our lives, to be wisely directed, must be in constant progression, not to the tomb,—for that is fate itself,—but in acts which shall count to society and cause us to be remembered with satisfaction by our survivors. Our abilities and condition may restrict us to an humble sphere; our names may never descend to posterity; the voice of Fame may never echo our exploits; still, we should exert ourselves and aim as nobly as if angels were looking on to pass judgment on our actions. In solitude or before the public eye, we should be guided by the same pervading principle, a desire to promote the happiness of others. This is the true foundation of character. In serving our fellow-men as our means and opportunity may allow, we best promote our own enjoyments. Cold and selfish must be that nature which has no sympathies,—no delight in doing good. The sweetest memories of the heart are those connected with some act of kindness, some effort to promote the welfare of others.

In this desire, and for this object, the Oglethorpe Lyceum had its origin. As an humble member, it has fallen on me to open its public exercises. I shall not occupy your time with apologies of unfitness for the task. This you will perceive soon enough, without being alarmed in advance. I have no stores of learning or flowers of fancy to offer you. The only claim I have to your favor as an audience is, that I am a *graduate*,—yea, actually a GRADUATE,—not of any college, or even of an academy,—but of a school in which fools learn wisdom, the hard and useful school of Experience. If this *institution* ever conferred degrees, I should be nothing less than an LL. D.,—Learning Lessons in Drudgery. The dreams of youthful ambition have fled unrealized, the vigor of life with me has passed. My blood no longer flows in channels of flame. It creeps quietly along, as if in silent gratitude for the privilege. With such preparation, and no other, do I come before you this evening to deliver what, in formal phrase, might be called the Introductory Lecture; but really it will prove no lecture at all, if rhetoric or science is expected. A few plain thoughts in familiar style will constitute my address.

I attack, first, a very common opinion,—that labor is a hardship. I once thought it was, in my young, novel-reading days, when I felt and sighed with the heroes of imagination. But, thank Heaven, the error has vanished with the dream. Stern necessity has been my teacher. I was forced to labor or perish. The consequence is, that a frail body has been preserved, and a new prospect opened to my view. I love to stand side by side with men of action. The very atmosphere they breathe energizes me. I go forth braced for the discharge of duty. We read of triumphs in war, and we envy the hero. History has taken him in charge, and he figures well on paper. We can do better still: our triumphs shall be bloodless, and our history more gratifying in the field of labor. Man is naturally inclined to take his ease. He must be driven from his couch, or he will take a little more sleep, and then a little more slumber, and then a little more folding of the hands to sleep, until, good *sleeping* soul, the first thing he knows, poverty (of intellect or estate) has come upon him like an armed man, and he is doomed.

Such is the picture from inspired authority. Do we not see it every day? Look at yonder moping figure, with just life enough to creep from one place of idleness to another. He is one of the sleepers: the armed man has him in custody. Rouse, dear captive, and escape. You are drifting into the whirlpool, and must soon go down. Already you are in the circle; one more round and you are lost. Now in the darkness I hold a light and reach out my hand to save you. Strike for the shore; let me lift you on the rock of Labor. You seize my hand; you are safe. My soul rejoices. Now look on the peril from which you have been delivered. Behold your neighbor, friend, son, brother, dashing round with folded hands in the contracting circles of the *maelstrom*, taking just a little more slumber on the verge of destruction. Poor sleepers! I pity you. I once belonged to your fraternity, and felt the sands give way under my feet as I approached the whirlpool. Long did feeble health plead for a still further ride on the waves, for a little more sleep; it was necessary; the morning air was hurtful, and so was exertion of any kind. Down I floated, until John Foster picked me up. His Essay on the Decision of Character opened my eyes and saved me.

Foster was an Englishman, and paid his addresses to a young lady who admitted that she was pleased with him, but had resolved to wed no man until he had given proof of a superior intellect. His plan was fixed; the prize he intended to gain. He wrote her several letters, and such love-letters! Not a word about the tender passion; but he opened the philosophy of life with the hand of a master. His Essay on the Decision of Character comprised some of these epistles. It is worth a peck of diamonds. Foster triumphed: the lady became his wife. Would it not be wise for our lovely maidens of the present day to require a pledge of their suitors, not so ambitious, perhaps, as that exacted of Foster, but at least a certificate of industry? A man who boldly faces the ills of life, and who avails himself of all the possibilities of his situation, may stumble; he may fall, but he will rise again stronger and wiser for the conflict that awaits him. The man of resolution will overcome adversity at last. Trials and disappointments are necessary to form a solid character. A lazy man who has no will of his own and no courage to combat difficulties is not worth a pinch of snuff. Life is a battle-field, in which the daring conquer the timid. I love that modesty which is often associated with merit. Youth may defer to age, and wait its opportunity: it is right to do so. Still,

there is a limit beyond which modesty is a foe to advancement. The danger in holding back is, the feelings become impatient, and, for want of utterance on equal terms, they turn upon their possessor with an intensity that devours. A noble mind, conscious of its powers and rights, will suffer in silence rather than seek relief by complaint. This is a morbid condition, and should be prevented. Go forth, young man, listen and talk your full share. Be not dismayed at wrinkled gravity. If you have ideas, men of experience will give you credit for them; and, if your head is empty, the sooner you learn the fact the more time you will have to fill it. To men over middle age use no flourishing expressions. As ladies *never* reach that period, you are at liberty to avail yourself of all the richness of the language in pleasing them.

But I have strayed into the book-department merely to aid labor the better to accomplish its mission. The mind as well as the body needs sustenance. For the graces of learning, aside from its practical use, I care little. That man who shuts himself up among his books, who revels in the luxuries they afford, without bestowing a morsel outside his chamber, may be very amiable, but it is also certain that he is a very profitless being. His wealth may justify the expense, and his spirit may desire seclusion; yet he will be happier by mixing a knowledge of mankind with his meditations. He is then a real essence. A false light is shed by books. Men and objects of a very common description are magnified into wonders. There is a vanity in authors to show their abilities in composition to the best advantage, whether on a fat or a lean subject. All is superlative. Be on your guard: I have been behind the scenes, and assisted in dressing up the characters for exhibition. Look on your neighbor—that mechanic, merchant, doctor, farmer, lawyer, or whoever he may be—as a man of the same material out of which prodigies are made *in print*. A practised writer can take any yearling lad who has blubbered over the Children of the Abbey, and fix him up with such finery of sentiment and character that his own dear mother will never recognise him! I am sick of this stuffing process by which sparrows are made to resemble turkeys in the feast of literature. It is time a greater simplicity, a more faithful narrative, should obtain in our books. In reading of certain heroes and statesmen, my young fancy hailed them as demigods. Afterward, conversing with these same *immortals*, I found them nothing but men, hesitating for ideas and language, just as we are in the daily habit with each other. The chief mark of superiority I discovered in them was plainness of manner.

My object in exposing this book-deception is, that we may all be reconciled to our lot. In contrasting our humble position with the fame we see heralded from the press, we feel our insignificance most forcibly. We ask, Why did our Creator cast us in such inferior mould? Surely He has exercised the potter's privilege, of shaping one vessel to honor and another to dishonor. This, however, affords us no consolation. We murmur still. When we come to find out the truth, there is no such partiality in our Creator. He has made us all pretty much alike in faculties and dispositions; but it is the writer of books who has caused the difference to appear so manifestly. Let us cheer up, then, forgiving all rivalries, and be animated with one common resolve to be useful in our day and generation, to the extent of our capabilities.

The seeming lightness with which I have spoken of books merely applies to the sin of exaggeration in authors, and the unhappy effect on

readers, of the class of writings specified. We *must* read books, not to be scholars all, but to have our minds stored with images to bind us in more cordial fellowship with our race. The course of Providence has been the same from the day Adam reigned in Eden. A law has been given and the penalty required. Action in the line of duty has ever been blessed. We derive happiness or pain as conscience approves or condemns. To act well, we must be enlightened. What books deserve to be read must depend on the peculiarities of each individual. First of all, acquire the habit of reading, and then push on as circumstances may lead. I have seen persons take up an interesting book, and in a few minutes dismiss it with a yawn. It is generally a hard task to read unless the mind has been occupied with lively impressions. A long course of study, though much to be desired, is not indispensable. Knowledge sufficient for the common exigencies of life can be acquired without severe training of the intellect. Natural Philosophy is taught us by every operation of nature. The forest, the river, the blade of grass, the atmosphere, the heavenly bodies,—light, darkness, the electric flash and the roaring thunder,—every arch, circle, segment, and line; every force in mechanics, the pulley, the screw, the wedge, the lever,—are all pertinent illustrations, after a few elementary principles have been settled in our minds. But to obtain this preparation is the rub. How shall we start? Really, I am the last man to advise you; for I know very little of these things myself. True, I have read books professing to explain the mystery of matter,—that wood, iron, water, rocks, trees, and even animals, are made up of gases, or elastic fluids, called hydrogen, nitrogen, oxygen, and carbonic acid, with their endless compounds, far beyond my feeble grasp. I regret my ignorance in this respect, and I frankly confess it, to warn the young against idleness. Had I read works on chemistry and made experiments with the ardor and curiosity natural to youth, I could have talked to you to-night like a man sensible of his claim to your attention.

Do you believe that the globe turns round every twenty-four hours with a speed equal to that of the swiftest steam-engine? It seems impossible. Why are not our houses turned upside down, and the millponds emptied, was my simple inquiry when the *unreasonable fact* was first told me. Though I could not understand it, yet I believed, because about the same time an eclipse of the sun took place on the very day, at the very hour and minute, predicted in the almanac a year beforehand. I then gave in fully to the astronomer, and have been his confiding yet stupid child ever since, willing to catch the music of the spheres as I gaze at night on the starry orbs as so many beautiful lamps in the porch of Paradise. The same canopy that hangs in cerulean splendor over our heads was decked by the light which guided the sages of the East to Bethlehem. Who can look on the glittering firmament and the green earth, with full dominion vested in man over all the intermediate space, without kindling in admiration and gratitude for such a universe? Let man, the head of creation and the agent of the Almighty, prove himself faithful to the trust. Let each of us resolve to live better, to be more diligent in our several occupations, and to do all the good we can to our fellow-beings, that, when we sleep in the grave, our deeds shall be our monument.

I am not here to moralize, but to invite your company on a glorious expedition. We all seek happiness. It can be found only in self-conquest. I war upon sloth, my old enemy; I draw my sword, and press you in the fight. We have our own infirmities to subdue. There is a lion in the

way, and we must slay him with the club of Hercules. Do you ask for the weapon? I hand it to you: Let us lock hands and pledge ourselves to labor. Heaven will ratify the compact, and fortune will reward its observance. Some of us, I fear, will excuse ourselves by saying, It is too late now: I have wasted the prime of life in ease, and to rouse up in the middle of the afternoon to accomplish any thing by sunset is like cutting down a stone wall with a pocket-knife. Yes; this is the very work I call on you to do. If you have slept away three-fourths of your life, the reason is stronger that you should devote the remaining fourth with more assiduity to some useful end. With the lights of experience, you can be more successful. Industry will pick the stone wall to pieces after a while. So will your energies, once fairly stirred, batter down all difficulties. Try what you can do. You can never fathom your capacity until it is put to the test. Adversity is our friend; she drives us to action. Instead of grumbling at our condition, let us try a little more patient labor to improve it. Heaven will prosper the diligent. We all have our troubles. In youth we dream, and love, and hope, in happy ignorance of the future; in middle age we find out the delusion; and, unless we employ the balance of our time in rectifying the errors of the past, our lives will prove a miserable failure. It is never too late to do good, and never too soon to begin, is an old yet valuable maxim.

I take occasion to introduce here some lines from the pen of Martin Farquhar Tupper, whose late visit to the United States has added nothing to his fame. He is the author of *Proverbial Philosophy*, a work of more wisdom and nonsense oddly blended together than has ever before issued from the press. Yet I admire Mr. Tupper for his self-reliance and fortitude. He says, "Cheer Up."

"Never so gloomily, man with a mind;
 Hope is a better companion than fear;
 Providence, ever benignant and kind,
 Gives with a smile what you take with a tear;
 All will be right:
 Look to the light;
 Morning is ever the daughter of Night:
 All that was black will be all that is bright!
 Cheerily, cheerily, then! cheer up!

"Many a foe is a friend in disguise;
 Many a sorrow a blessing most true,
 Helping the heart to be happy and wise,
 With love ever precious and joys ever new;
 Stand in the van;
 Strive like a man;
 This is the bravest and cleverest plan;
 Trusting in God while you do what you can!
 Cheerily, cheerily, then! cheer up!"

Having quoted from an author who certainly evinces a philanthropic spirit, I will merely say, in regard to books, that, when the habit of reading is once fixed, the individual has a source of enjoyment to which he was previously a stranger. Nothing can then come amiss, from light romance to grave history. I never perused a book that did not afford me new ideas or contribute pleasure in some way. Always have a variety, that you may take up at intervals of leisure such as your mood may prompt. If reading is a burden, beguile your imagination with a novel, and perse-

vere to the plot, surrounded by lovers and mountains, ivy-crowned castles and sloping parks. You are then safe. By the law of gravitation, you will hold out to the end, to see the fate of that solitary traveller who, on a stormy November evening, rode up to a nice cottage where dwelt a pretty maiden with dark ringlets. Believe it all, and sympathize with the characters. That is the way to enjoy romance, or any other class of reading. When the taste, however, can relish more solid nutriment, lay novels aside and take to the magazines, a mixture of fiction and truth quite entertaining and harmless. Then visit the bookstore and choose for yourself.

I must relieve your attention from a further tax, unless I had something more worthy to offer. I am but a pioneer, to scar a tree here and there in the Lyceum forest. As you see, I have swung a dull axe, and have opened no path. Still, I have taken formal possession of the ground, and shall leave the smiling fields and rich gardens to be cleared by more skilful workmen. Our Executive Committee will provide speakers to address you at suitable periods. If services from abroad are not obtained, we have gentlemen at home well qualified for the Lecture-Chair. Do not be discouraged at this poor specimen.

One word to the ladies, in conclusion. In the name of my associates of the Lyceum, I tender you a special invitation to our Lectures. We shall always feel honored by your presence. We are striving to advance your happiness by improving our own sex. Men of intelligence know the claims of lovely woman to protection and kindness. You exert an influence which I will not trust myself to portray. The dessert is always reserved for the last of the feast. Even so, ladies, by associating you with my closing remarks, I give an interest to the occasion which it would not otherwise possess.

(From the Democrat, July 1, 1853.)

TO THE EDITOR OF THE SOUTHERN DEMOCRAT:—A young man recently applied to me for some thoughts on Eloquence. The reply is herewith sent you for publication, in order that, while reaching him, it may be seen by others who are willing to accept good intentions as a substitute for merit, on a topic so worn yet always fresh. The sources from which I draw "The Spirit of Eloquence" are disclosed in the reply,—the heart and the external world. If I have failed to expose the folly and bad taste of a lifeless rhetoric, it is not from partiality to so glaring a defect, which is not the less objectionable because it happens to be prevalent. I teach from observation, not by example.—M.

THE SPIRIT OF ELOQUENCE.

A false idea of Eloquence too commonly prevails. Scholars by profession are apt to consider flowery sentences and musical periods as the very art itself, beyond which there is no improvement. These qualities, indeed, captivate the taste, but do not constitute Eloquence in its purity and force.

First of all, there must be a purpose in the mind of the speaker, besides showing off his pictures of fancy or the beauties of rhetoric. Is a conclusion to be established? Let the facts which lead to it be given with simplicity. The less drapery in the narrative, the more distinct the subject-matter. Nature is the best guide. Men are accustomed to follow the order of things in making up their judgment. The speaker should begin in a modest, subdued style, with his voice rarely pitched above the conversational tone. This will give ease and confidence,—two very essen-

tial cords to bind an audience in silent, attentive mood, thereby inspiring his own faculties. There is a mental electricity that flows from eye to eye, and from heart to heart, in a large collection of people. A man must be either a veteran in debate, or of very obtuse sensibilities, who can face an assembly without trepidation. The best way to preserve his calmness, if much be expected or promised, is to fall below his reputation, or his ability, in the opening.

Here lies the secret of Eloquence,—self-possession in the orator, and a definite object in view, earnestly pursued. It is an error to suppose that the treasures of the mind must be poured forth in a constant stream of rich language, or that the ideas of the speaker must be adorned with poetic softness of expression verging on the wild melody of Ossian. This strain can be indulged only as an exercise to work the fancy into a proper mould for the combination of truth and feeling, with no effort at scholarship other than an easy style. Whenever it is perceived that a speaker is on stilts to show himself, he loses the sympathy of his audience. It is therefore important to cultivate an artless yet graceful diction, with learning and taste so gently blended that minds of severe cast may be satisfied, while those of a different structure or of less refinement may consider the feast as prepared specially for them. Much will depend on the occasion, and the judgment of the speaker. No rules can be laid down applicable to all situations. The best general hint is conveyed in a brief sentence:—Good sense, strong impressions, and a deliberate manner. With these, the highest offices of speech may be achieved. Brilliant and stirring passages should never be introduced, unless the topic is worthy of the expenditure.

To shine in debate, however desired by all, is the privilege of only a few. A good voice is rarely possessed by scholars of a high order. Such men, in the eager pursuit of letters, usually forget their health until disease has commenced on the most vital organ, the lungs. There is a fascination in books hard to resist, even when life is at stake. Study should be temperate,—never excessive,—and always suspended for a brief interval, until the energies of mind and body can be recovered by countervailing exercise. This suggestion may be deemed by some as rather more appropriate in a lecture on the art of preserving health than in an essay on eloquence; but its propriety here can be defended. To insure success, the speaker must feel within himself the certainty of pleasing. He must know beforehand whether he will appear timid and confused, (a most painful situation to all present,) or whether, with commanding address, he is to lead his audience safely into his subject, kindling, as he proceeds, from the very inspiration of silence around him. There is often a conflict between extreme modesty or diffidence on the one hand, and an arrogant self-superiority on the other. Neither condition is the best for eloquence; but, if one or the other defect must prevail, modesty will find more favor with the public, besides being the most usual companion of ability.

To sum up the constituents of eloquence is no easy task. We all know when we are pleased or enlightened. The test may be thus applied: Does the speaker interest me by the originality of his thoughts, the grandeur of his emotions, or the purity of his style? If either, then he is eloquent; but if he unites thought, emotion, and style of the degree supposed, with a good delivery, then he is more than eloquent,—he is sublime. Such a qualification is within reach of gloomy natures, who have been tried in the crucible of adversity, whose hearts have bled from concealed

griefs, and who, with virtue and humanity ever alive, have pierced the fountain of human sensibilities. With men of such experience, the tinsel of rhetoric has lost its charm and the romance of passion its iron rule. Just as the master-workman can select materials for the edifice with better judgment than his apprentice, so the man of large observation knows exactly what fragments of literature to gather, what cords of the heart to touch, and what motives to address, to accomplish his purpose. Eloquence requires diligent, persevering study, not always in the closet, but in society, amid the daily actions of men in all situations. The book-worm, merely as such, has very little intrinsic value. He must devote his acquisition to some useful end,—something that will benefit his fellow-men, either in the walks of learning, in the products of the soil, or in the mechanic arts. A knowledge of these different interests, and a cordial sympathy with all, would furnish a key to every bosom. Men require their judgments to be moved by a solid, matter-of-fact appeal: no mere embellishment will answer. Hence the richest style of the scholar, unmingled with the true sympathies of life, can never be accepted as eloquence. It has the frame, but not the spirit.

The time has passed for an artificial and scholastic array of words to stir the minds of men. A new channel may be opened by some bold, philanthropic pioneer who seeks the shortest way to their affections. Let him cultivate letters as a passion, so as to elevate and expand his intellect, but at the same time cherish a deep and active principle of benevolence which shall manifest itself in the daily courtesies of life, promoting the welfare of all classes, feeling a right of equality with the highest, and a kind, obliging regard for the humblest. A good heart can perform this duty without violence to its pride. Ungainly and repulsive as uneducated men may appear in literary circles, still, they possess ideas and information of practical value, which, contrasted with the mere man of books, would put him equally to the blush among the masses of his countrymen. There is no cause for enmity or discord between the different classes; all have a work assigned them necessary to their mutual well-being, and all who do the best they can, with their opportunities, are entitled to praise, however opposite their fortunes. Genuine eloquence is from the heart: it can have no other source. To-be-sure, it must have words as a vehicle, just as the gun-barrel gives direction to the ball; but the force is supplied by another agent.

The heart is the reservoir of all that is truly good and persuasive. Smooth sentences and formal illustrations, aiming only to impress others with the refinement of the speaker, can never excite the feelings. A sense of pleasure may be experienced; but the utmost that can be claimed for such artistic skill is a mastery of language under the control of classic taste,—a qualification often possessed by men who never felt or observed enough of life to know the springs of human action, or with what force to touch the heart, to awaken its deepest responses. All nature is suggestive of eloquence; and he who trusts to his books alone, and to his own solitary speculations, for the power of moving men, will find himself grievously deluded.

From this picture it may possibly be inferred, by some, that hoary locks and a wrinkled visage must grace a man before he is prepared to conquer in the field of eloquence. This idea is not to be admitted. Youth is the season for gathering laurels, just as spring is the time of flowers; and, like the annual and perennial stems of the vegetable kingdom, so of human

character and capacities. Many are cut down by the first frost; while others hide their blooms through thirty or forty winters but to unfold a richer crown, studded with the gems of tribulation and fortitude, to last forever. The average of success is greatly in favor of the young aspirant. The boldness of self-conceit and the timidity of a modest mind are both to be avoided: the one usually ends in disgust, and the other in failure. The happy medium is the ladder of triumph.

But the line of duty, as it is the path to distinction, is active employment. Plant the seed, and in due time the harvest will appear. He that craves honor must toil for it with patience and energy. Like the statue in the block of marble, the rubbish must be removed to bring out the image that slumbers in the quarry: the fragments that lie in confusion in dreamy, indolent, ambitious minds must be cleared away to arrive at the spirit of a man. It is a mysterious power,—which, fairly roused and nobly directed, proves a blessing to the possessor and to the world. Aim, then, at high objects within the range of possibility. Take good care of the heart as well as of the intellect, with strong hope to sustain you amid the countless difficulties you will have to face in any career worthy of a rational being, and the reward will be sure just at the proper time and in the right measure.

VIII.—NEUTRALITY IN THE PRESIDENTIAL ELECTION.

The author does not presume to interest the public by his course in late Presidential elections; yet he ventures to republish a short correspondence on the subject with this additional remark,—that he did not vote for President in 1848, because he was then residing in the city of New Orleans, and could not vote under two years in Louisiana, which time had not elapsed. Had he been entitled, he would have voted for Gen. Taylor. In the contest of 1856 the author took no part, and gave no vote, though his sympathies were with the American candidate for President. His desire—freely expressed previous to the Macon Convention in July—was that the American party would present no Electoral Ticket in Georgia, but would unite in support of Mr. Buchanan to beat down the sectional movement at the North, which he considered as likely to endanger the Union. The author takes occasion to say that he never belonged to the Order of "Know-Nothings," and also that he has no affinity for any political organization which recognises Martin Van Buren, against whom he wrote and published many hard things in 1840,—sincerely believing that he was alike heartless and destitute of principle, as his conduct has since fully verified, to the great confusion of his former supporters in the South.

(From the Southern Democrat, July 17, 1852.)

The following correspondence has been handed to us by Maj. MILLER for publication:—

MACON, July 11, 1852.

DEAR SIR :—The Whig party of Bibb county have determined to make a rally on Thursday night in this city, and would be glad to see you present on the occasion. We feel certain that you are for Scott and Graham and the country, and against Kossuth and the Democracy.

Respectfully yours, &c.,

THOS. PINKNEY SMITH,

One of the Whig Committee.

Maj. S. F. MILLER,
Oglethorpe, Ga.

REPLY.

OGLETHORPE, July 13, 1852.

DEAR SIR :—I received to-day your note of 11th instant, inviting me to a Whig rally for Scott and Graham in the city of Macon.

Were I present at your gathering, I could have no sympathy with your demonstration. I might enjoy the fine speaking, but not the cause. Your standard-bearer, though covered with laurels and worthy to rank with Wellington as a military chieftain, is tainted with "higher law" associations, if not propensities. As a Whig soldier in the campaigns of 1840 and 1844, sharing alternate victory and defeat under leaders who now exist only in fame, I exceedingly regret that a Whig National Convention should have ever presented a candidate for the Presidency whom I could not freely support. But I find myself in this embarrassing position in 1852.

Gen. Scott—though a native Virginian, and proud as he is brave—may have affections for CANADA incompatible with the welfare of Georgia. He has not relieved himself from the possibility by any act or declaration. I admire him as a hero,—and still must refuse to aid in clothing him with Executive powers. The Free States, as you well know, have a large majority in the popular branch of Congress, and the equilibrium between the North and South has been destroyed in the Senate by the admission of California as a State. How vitally important, then, to the Slave States that we should have a President who would protect us against the unconstitutional legislation of a reckless majority in Congress, which may at any time proclaim, in solemn form, that the *higher law* forbids "man to sell his brother-man" !

The Whig party of the North has been absorbed by the Abolitionists and Free-Soilers : I cannot recognise such companions : nor am I willing to vote for Gen. Pierce, the Democratic nominee, though of the two candidates in the field I regard his claim on the confidence of the South as the most respectable. I shall stand aloof, as at present inclined, folding my arms in the contest, with nothing to rally upon but the Compromise as expounded by the Georgia platform. I think the Whigs of the South can preserve their consistency and honor by remaining neutral ; or, if they must take sides, let them unite on Gen. Pierce, and thus prevent Gen. Scott from receiving the electoral vote of a solitary Slave State,—a just rebuke for his *condescension* to the enemies of the South.

Thankful for the civility of your invitation, and trusting that old friendships will not be disturbed by this conflict of opinion between brother Whigs,

I remain, yours, sincerely,

STEPHEN F. MILLER.

Gen. THOS. PINKNEY SMITH.

IX.—LETTER TO JOHN LIVINGSTON, ESQ., ON "EMINENT AMERICANS."

(From the Columbus Enquirer, February 7, 1854.)

TO THE EDITORS OF THE COLUMBUS ENQUIRER.

GENTLEMEN:—For two or three years past the country has been flooded with printed circulars, lithographed letters, and artful prospectuses from 157 Broadway, New York, inflicting on the legal profession several volumes of trash. Even this could have been submitted to, had the author kept within the bounds of common propriety; but when he made it a regular business to approach men on the *blind side*, and filch their money under pretence of establishing their fame, and when he opened his door to all sorts of company on payment of the *admission-fee*, and then labelled them "EMINENT AMERICANS," I am not disposed to sanction the outrage by further silence.

Whatever may be his ideas of character or the qualities necessary to exalt a man in public estimation is a matter entirely with himself: still, as he claims to influence public opinion by his labors, I protest against the new doctrine of measuring out fame on the principle of money. If his agrarian system shall domineer over the intellect and virtue of men, there will be a melancholy falling off in the requisites hitherto considered as the passport to public honors. For the sake of my country, of public morals, of the large number of my fellow-men who toil patiently for unsolicited though just rewards,—who despise reputation not fairly won,—I venture to unmask the Broadway "Barnum."

I herewith enclose a communication, which explains itself, and respectfully ask you to publish it in the *Enquirer*.

Yours, &c.,

—, GEORGIA, January 2, 1854.

SIR:—The January No. for 1854 of your *Monthly Law Magazine* has been received through the mail. As I did not order and am not inclined to subscribe for the work, I have enclosed you twenty-five cents to pay for the specimen, as you required.

You have labored diligently for the legal profession, and have opened a new era in fame itself. In the early part of 1852, you applied to gentlemen for memoirs and *likenesses* to appear in a work embracing about SIXTY of the most distinguished jurists in the United States. A letter of this kind was shown me by the judge to whom it was addressed, he desiring my advice as to what answer he should give, and also frankly confessing that he was not worthy of the honor you proposed to do him. As I had enjoyed his friendship a long time, and knew his manly character, I appealed to him, for the sake of the young men of the country, to let his struggles be known, and to place your letter and the subject of it in my charge. Within thirty days you were in possession of the memoir and a *daguerreotype*, as you requested. In a couple of months thereafter he exhibited to me another letter from you, requiring a deposit of *one hundred and ten dollars* before the likeness could appear,—you stating that only a few men, such as public benefactors, were excused from paying the engraver and the other expenses attending five thousand copies of the likeness to accompany the edition of that size. I was not a little mortified at your bad taste in sending the judge the proof-sheets of his memoir, as I felt embarrassed at his seeing it in advance of the volume. At my

request he complied with your *demand*, and thus, indelicate as he considered the act, *bought* his niche in your temple of "Eminent American Lawyers." This memoir and likeness may be seen in your "Portraits and Memoirs of Eminent Americans," vol. ii. p. 747.

This operation is intelligible enough. The judge was drawn into select company, as he imagined; of the twenty-five thousand members of the bar, the volume was to include but sixty of the most distinguished. The honor was gratifying. In a few months, however, the judge found himself among a perfect rabble of *great men*: anybody and everybody who was *able* and willing to pay one hundred dollars for the privilege obtained a place in your work. After gathering up a regiment, in all varieties of uniform, your monthly numbers were then purged of all *trashy* characters who, from inability or self-respect, did not check on New York for one hundred dollars, payable to your order. And then came forth two *splendid* pictorial volumes, the *richest* ever before published, containing one hundred and four original portraits, from the United States Supreme Court down through every class of the *male* population to the village lawyer, the petty bank-agent, the beardless doctor, the frisky politician, the bombastic scribbler for magazines, the miniature hero, the county justice, the factory proprietor, the railroad-president, the cashier of a little bank,—some embryo statesman, merchant, farmer, mechanic, &c. &c.,—all figured in your pages as the very pith and soul of greatness!

Now, sir, I admire excellence in all the pursuits of life, and as readily yield homage to a skilful architect as to a Governor or the President. You have explored new mines, and are entitled to praise for producing from neglected and unknown quarries heavy loads of reputation and *gold*, which, but for your ingenious labors, your peculiar skill, might have slumbered forever, wholly lost to the world as a circulating-medium. For, believe me, you have not only secured the gold to yourself, but you have thrown into circulation names, ability, worth, virtue, courage, and other graces of character so much of the Barnum type—so gotten up with the genuine *museum* variety, the Tom Thumb squint, and the *menagerie* classification—that you have gained the significant yet well-deserved title of "Lawyer Barnum." In awarding you this pre-eminence, I bestow honor far surpassing that which your "Eminent Americans" enjoy by reason of their being *hatched* or decorated from your nest of "Barnum" feathers and fustian. Allow me to say, with kindness and regret, that your grouping of characters, your men of note, the master-spirits of the age, those who give tone to society and shed lustre on the Republic,—your work, with all this merit, has been called a "Pantheon of vile mediocrity." Whether the facts authorize the epithet, I pretend not to decide.

One consequence has followed. Before your day—before you hung out your "Barnum" flag—rich blockheads, or men of the hundred-dollar stripe, found it impracticable to have themselves engraved and set forth in a book as "distinguished." This class are largely indebted to you for removing the obstacles which hindered their ascent to "Fame's proud temple." The way is now clear! One hundred dollars will gain the village jurist admission to the same platform with Marshall, Pinkney, and Webster; will open the door to the veriest quack to sit familiarly with Rush, Stone, and Mott; will lift the silly declaimer on election-days to a level with Clay, Calhoun, and Atherton; will galvanize a militia-captain into the stature of Scott and Taylor; will transform a country merchant

into a Girard or Astor, and achieve all such magical wonders. Your letters inviting the hundred-dollar people to rally, to become great, to have their faces exhibited in your "Pantheon," their deeds recorded in your "Magazine," were scattered broadcast over the land. I have seen them in the hands of men who were perfectly astonished that you found out their names. They had never made a speech,—never wrote an article for the papers,—never displayed any information beyond that of plain, half-educated farmers. They at once inferred that you had been in correspondence with the tax-receiver to ascertain the largest property-holders in the county. I presume their conjectures had a good foundation. Some of them laughed downright at your mistake; and others, of less penetration, swelled up with vanity, with "dictionary-talk," with constant training for a dignified posture, a wise expression of the face, to be copied by the artist to adorn your collection of "Eminent Americans."

You have roused the spirit of the people; you are hailed as a benefactor of the masses. Until you cut down the barriers, men of genius, of education, of true eminence and brilliant qualities,—men who had faithfully served the public as legislators, as judges, or in some other conspicuous situation, or who excelled as writers, or in deeds of arms, or in science,—could alone be admitted into the galaxy of intellect, of high renown. But you, sir, came to the rescue, and happily illustrated the declaration, made by Mr. Jefferson and the immortal signers, that "all men are created equal." Standing on this rock, you sounded the trumpet in every nook and corner of the land, from the Lakes to the Gulf, from the Atlantic to the Pacific, over mountain and valley, that one hundred dollars would *show* all men equal,—all "Eminent Americans." If they were too modest to write their own memoirs, or had no friend near to perform the task, just furnish you with dates, a few random facts and hints, and your pen would fix up the flaming biography. From the style, I rather think your courtesy was often taxed by your subjects. There is much of whirlwind uniformity, much of the nauseating hyperbole, the grand rhetoric, which mark your composition, whether in lithographed circulars, (supposed to be written singly to the individual,) in dedications, in *arguments*, or prefaces, demonstrating your claims to the patronage of the bar, or in the luminous detail of great qualities or great actions for your "Pantheon."

I pass over the irregularities,—the suspension of the "Biographica" for months together, when your subscribers were hungry for the new food, because you promised it should be choice and savory; the transposing of the old subscription-work into a new dress, into two volumes, with the portrait-class repeated, at a charge of five dollars per volume, a few recruits being mustered in on the hundred-dollar principle: I hasten over these *casualties* to say that I have taken all your publications from the beginning, so far as I know,—several thousand pages; and I have paid you for them, as your receipts will show. I prize your volumes. I often look at the pictures, and sometimes read a sketch or two. You have accomplished much to deserve the thanks of the country; you have invented a cheap literature, a current history of cheap characters, exciting hopes in the illiterate and lazy to figure in your pages, natural as life, along with the President and his Cabinet,—one hundred dollars being the price of such companionship. I hope your books will find ready sale. The portraits alone, just for their variety,—for the noble expression of some faces and for the equivocal meaning of others,—are worth the money. You have indeed erected a "Pantheon," with entrances inscribed on

your title-page,—“New York,” “London,” “Paris,”—by which you announce that in all those cities your “Eminent Americans” are ready for exhibition to all such as may desire to see how the Puritan blood has improved, how Cavalier sprigs of the old English stock have degenerated, and how the Huguenots of France have flourished under republican institutions in spite of their coats-of-arms. While the scholars and leading men of Europe are inspecting your volumes, the work of the engraver and of the pen alternately, I tremble for the character of my country abroad—for the unfortunate classes outside the “Pantheon”—if those on exhibition are the “eminent” citizens, the truly great men, all the great men, or even a fair specimen.

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I regret that Lavater died fifty years too soon. Were he living now, his facilities to interpret character would be greatly multiplied by your labors. For instance, he might take up Part I. of "Biographical Sketches of Eminent American Lawyers," published in March, 1852, and see an intelligent face belonging to the bench of the Supreme Court of the United States. Then, passing to "Portraits and Memoirs of Eminent Americans," published in 1853, (vol. ii. p. 789,) he would be introduced to *another* member of the same tribunal, of striking resemblance. And, closing with the *Law Magazine* for January, 1854, his eyes would be delighted with still *another* justice, whose features he must have seen before. His conclusion would be—and he would so write it down for posterity—that the physiognomy best adapted to the administration of law was made up of thin lips, the nether one a little protruding, a large beefy nose, big eyes, and an oval forehead, with the hair combed over the right temple,—all illuminated by a good-natured, pouting expression. This would be Lavater's honest opinion from having seen the features of *three* justices of the Supreme Court, of that identical mould, in your publication. This triple device of yours is only a part of your system to cry out "Portraits! portraits! hundreds of portraits! ten thousand dollars paid for engraving! wonderful enterprise, deserving support! publisher will lose, unless every member of the bar takes a copy!"—when, in fact, your magnificent gallery of pictures never cost you a farthing. They were paid for by your "Eminent Americans," and still you have the face to experiment further on human infirmity!

I have been candid, yet forbearing. You have contributed to the fine arts, and deserve the special gratitude of the engravers,—as I suppose you allow them a portion of each hundred-dollar bonus. You have published, or professed to publish, a list of all the attorneys in the Union; and you have bored them all for pay,—even threatened that, if they did not remit instantly for your *Register*, you would omit them in the *next* edition,—which might prejudice their business. Some of your country brethren thought you a little despotical thus to exact tribute and alarm them out of

your title-page,—“New York,” “London,” “Paris,”—by which you announce that in all those cities your “Eminent Americans” are ready for exhibition to all such as may desire to see how the Puritan blood has improved, how Cavalier sprigs of the old English stock have degenerated, and how the Huguenots of France have flourished under republican institutions in spite of their coats-of-arms. While the scholars and leading men of Europe are inspecting your volumes, the work of the engraver and of the pen alternately, I tremble for the character of my country abroad—for the unfortunate classes outside the “Pantheon”—if those on exhibition are the “eminent” citizens, the truly great men, all the great men, or even a fair specimen.

I recognise in your miscellaneous group a few worthy of a better fate than to be immolated on your altar of gold. You have, by accident, drawn into your “Museum” men who justly rank as “eminent” in this or any other Government. Such I honor; many of your characters I respect; some I know to be good and great, and I am sorry that you have mixed them with so many of an opposite cast as to endanger their safety in the stampede for fame,—pure hundred-dollar fame,—such as you guarantee to all your clients in this branch of your practice.

With all your merit and good intentions, you have wounded the American mind; you have emasculated ambition of its energy, and genius of its high prerogative. Greatness is humbled,—cheap, very cheap; you have glutted the market. You have thrown so much of your fancy stocks upon ‘Change all at once that dealers in the solid class have withdrawn. Your price-current quotes them all at a premium, and operators,—men forming their judgments of character,—having been deceived by your figures, will never again refer to your list for accuracy. Lopez issued his bonds to be paid when Cuba should be conquered, and did not live to redeem them. You did better. You got the full hundred dollars per share in advance, and paid subscribers in counterfeit fame,—such as good judges nail to the counter as base alloy. In fact, there is so much of this coin afloat from your mill that people begin to reject all book-quotations, all printed matter, and look elsewhere for the truth. For this unhappy effect you must answer at the bar of public opinion. Full pockets cannot bribe the jury to let you escape with the balance of your plunder.

Since your fiery coursers are pawing the air for a flight upward, there is danger of collision with less daring spirits who may prefer a voyage outside of your paper balloon. The bold eagle that hovered over our Revolutionary fields, and perched upon our capitols, up to the middle of the present century, now droops his imperial feathers in shame at the multitude of kites you have turned loose to compete with him in his own regions. To magnify your *protégés*, you have exhausted the pomp of language, the fertility of invention, and the zeal of applause,—all in the vain effort to turn pigmies into giants, mortals into gods. So you can have the privilege of writing out a man’s character, you never ask his dimensions, but at once hang on him all sorts of toggery, of all sizes, bespangle him with phosphorescent stars, and paste up his head at an angle of forty-five degrees, and then call him a great man,—a real Gulliver in Lilliput!

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pered. The deed was done. The engraver's bill succeeded the likeness, without previous intimation. Of course, they *protected* you from loss on their account, just as an ex-Governor of this State cashed a bill for one hundred and sixty dollars, several years ago, for his portrait in the *Democratic Review*. So you perceive that the tax you levied on your victims did not have the merit of originality. You have shown your love of economy and progress, however, by reducing the cost of engraved portraits fifty per cent., and the standard of reputation in a still greater ratio. Rampant as the *Democratic Review* has ever been to swell trifles into consequence, it had some respect for public opinion, some idea of decency. It was reserved for you to eclipse all your predecessors in the art of showing up men. Writers before your day looked to the interior qualities, the mind, the cultivation: you reversed the rule, and solemnly adjudged that one hundred dollars, in the absence both of mind and cultivation, constituted a great man. From your observatory, and with your hundred magnifying-power, you have done for your countrymen what Sir William Herschel did for astronomical science,—you swept the fields of space, and discovered planets of the first magnitude where previously nothing had been seen. If any admirer should rank you with him as a benefactor of mankind, the deed may be done with impunity, there being no statute forbidding such madness.

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their money. Some called it "swindling," others "black-mail;" all agreed that it was "Barnum" in his glory,—that you had no rival in humbug. Will you not hold in a little, for the profession to look around and consult whether or not they can dispense with your aid?

This age is truly marvellous. Steam, telegraph, caloric-engine; all producing mighty effects, and only surpassed by your machinery for the manufacture of great men,—your engine being propelled by the magic power of one hundred dollars, and turning out Websters at every stroke of the piston! I congratulate you on the patent, and hope that no man will be base enough to infringe your right.

Your obedient servant,

JOHN LIVINGSTON, Esq.,
Counsellor-at-Law, 157 Broadway, New York.

X.—LETTERS TO A YOUNG FRIEND.

To be of service to one very dear to him, as well as to young men generally who might happen to read them, the author conceived the plan of writing a series of letters, addressed as above, through the *Southern Democrat*. The first number appeared on the 29th December, 1853, and others weekly, until No. VIII., when, owing to the removal of the press to another town, the letters were discontinued. They are here republished with the hope of doing good:—

LETTER I.

Feeling a warm interest in your welfare, and with the hope that my experience may profit you, I readily yield to your wishes by giving some hints—a sort of outline, which your judgment can fill up as necessity may require—relative to the beginning and progress of active life. My qualification for the task is nothing higher than a sincere friendship, on which you may ever rely until you shall have committed some act more culpable than seeking my poor advice,—until you shall have swerved from that rectitude which is a part of your nature, impressed by the example and teaching of your father, who now, alas! can only speak to you from the grave. Your reverence for his memory, and your application to me, his bosom friend, for counsel at a period most critical in the life of every youth, places you in such a sacred relation to me that I shall discourse with you from time to time as if you were my son.

On the score of family you claim nothing, you fear nothing. You are truly one of the people, with no ancestral fame to boast and no dishonor to regret. With yourself alone, by the virtues of your heart, the energy of your will, and the firmness of your character, the prospect before you is to open. Luckily, your fortune is trifling and your education is sound. To-be-sure, no college ever conferred its parchment honors on you, or infused the vanity of learning into your mind by the high-sounding title of a graduate; still, you know something of the English language,—how to speak and write it correctly, even gracefully. That is sufficient. More I could not ask for you. Certainly, if you knew Latin or Greek, I should not presume to offer my poor thoughts, lest you might despise them be-

cause I was not also of Latin and Greek scholarship. Your literary and scientific foundation is such that you may safely aim at the highest rewards this life can afford. I do not mean that you can at once lead off at the bar, in the pulpit, in medicine, or in the halls of instruction; but you can build on your present stock, and work your way up, step by step, toiling in the closet and mingling in the crowd, alternately relieving your brain and extending your knowledge of men as they figure on the bustling stage of competition.

A wide field is open before you. Labor and idleness, integrity and fraud, honor and disgrace, are all soliciting the artless youth. The vices of the catalogue are especially active and enticing to gain dominion, to fetter the young man with chains of pleasure, and then, robbing him of his innocence and his happiness, to leave him nothing but the agonies of remorse,—degraded, hopeless! I know that your blood curdles at the picture,—at the idea of a blasted reputation. You are above the influence, the company of base men. Shun the drunkard, the gambler, the bully, the idler, the debauchee, as you would the coil of a serpent. They are a miserable class,—many of them once honorable, but no longer to be tolerated as companions. Even if some of them are less vile than society considers them, it is dangerous to listen to their talk, their profanity, their vulgar stories, their brainless ideas, their licentious merriment, and all the low figures of speech with which they usually embellish their rapid conversation. Take it for granted that nothing elevated, no manly resolve, no virtuous sentiment, no plan to benefit society, ever escaped them. It is a moral impossibility. When such characters happen in your way, treat them civilly, avoid giving offence by any rudeness of speech or behavior. Get away from them just as soon as propriety will admit. From my soul I pity them, and would fain restore them all to a fair condition,—to the possibilities of happiness. I know some clever young men drifting to this whirlpool who are not apprized of their danger. Oh that I could draw them back and whisper a word in their ear! I had rather hear of your funeral than of your slavery to vice. On this subject, however, your pious training and pure moral walk relieve me from all dread and guarantee your safety. I make the allusion merely to strengthen your principles, not to disturb your peace.

This letter is intended to prepare you for the meditations, the self-denials, the labor, the charity I shall enjoin upon you in my future communications, wherein my heart, with your image engraved on it, will be shown,—an almost parental anxiety, inspired by gratitude, love to your father, tender memories, precious yet mournful to the soul, the fireside of other days, when I saw you, a prattling boy, at your mother's knee, the delight of a happy household. Thankful am I for the privilege now to find that amiable boy the no less amiable youth whose conversation and epistles have so often refreshed me,—to whom I breathe these words of friendship.

Assured that you will receive all my suggestions kindly, I beg to apprise you in the outset that you can never be a true man, a great man, a useful man, a happy man, without noble aims to draw you forward, to rouse, to invigorate you in the contest of life. This is the base from which you must ascend; it is the granite on which your character must rest. I will listen to no evasions on this point, to no sluggard excuses, to no plea that others succeed, or appear to do well, in their several pursuits, gaining wealth and influence, without this stern quality, this upward flight

of the mind, this perpetual strain of the soul, this exhausting process. No worthy distinction, no excellence, was ever attained on any other terms. True, men may reach high official positions, may be talked of for energy, boldness, some turn of fortune, and yet be destitute of greatness, intellectually or morally. I do not promise that you will ever realize half the dreams of glory that you and all other warm-hearted, aspiring young men indulge; but still you must aim high, like the military engineer pointing his gun to throw a shot in the distant castle. The castle of fame must be your target. Now try your engineering.

Writing to you Christmas week calls up the scenes of my youth, the boys and girls, the old neighbors, the school-frolics, the merry dance, the holiday presents, the joyous romping, the pleasant visits, the cordial welcome, the rich dinners, the motherly kindness, which marked that noted era. Hallowed be its recollection! Those scenes, those companions, are gone forever! Though sad the retrospect, I rejoice to salute the son of one of those dear old cherished friends who ever made me happy at his Christmas fireside. May you live to witness many a return of this festive season!

NO. II.

You should bear constantly in mind that man is the creature of habit; and you should also remember that now is the time for you to establish your happiness or misery. Good and evil are before you, and you are a free agent to choose either. If you have seen examples of virtue and intelligence, if you have read of them, if they impress you with a desire to copy them, go to work on yourself; cast off sloth, fear, and all morbid apprehensions of the future. Resolve to be a man. Suppose difficulties gather in your path, friends deceive, fortune persecutes you, a few silly heads predict your failure: what of all this? Are you not the same, your motives as pure, your intellect as sound, your capacity to labor, to improve, just as it was before this persecution? The fact is, you must wade through seas of trouble; you must know adversity, affliction, every form of trial, to qualify you for successful action. You must not look up to those above you in wealth, station, and influence, and, by comparing your emptiness with their abundance, to accuse your Maker with partiality, or your parents with indifference to your welfare, in not providing you a fortune to start upon. Rather be grateful that you were born in an humble sphere, so that you may have the satisfaction of elevating yourself above it,—of competing with the sons of the rich. Ten to one, you will beat them in the race; for, while they have weight to carry, you, light as a feather, may dash on at the top of your mettle.

I know this view of the subject is not generally sanctioned by the young, by any classes who never stir themselves out of a torpid, eat-and-sleep routine of life. But, my dear friend, discard this error at once. It has kept thousands from realizing their own strength, from knowing their powers, their vigor of mind, their grasp of thought, their deep and swelling emotions. All these must be developed to complete character; the fountain must be unlocked for character to flow. Listen to the great orator Patrick Henry, who, writing to a friend in misfortune, thus consoled him:—

“Looking forward into life and to those prospects which seem to be commensurate with your talents, native and acquired, you may justly esteem those incidents fortunate which compel an exertion of mental

power, maturity of which is rarely seen growing out of uninterrupted tranquillity. Adversity toughens manhood; and the characteristic of the good or the great man is not that he has been exempted from the evils of life, but that he has surmounted them."

Hoping that such authority, added to my own sentiments, will reconcile you to the hardships of life as necessary to your own well-being, I pass on to other topics.

I should rejoice to believe that I had full possession of your mind, of your confidence, that I might stamp on it lessons of truth, of duty, and all the images which constitute happiness. Then would I prescribe a course of reading, the class of authors, the subjects, most conducive to improvement. But I have reason to believe that you allow me only a fragment, a little corner of your mind in which to deposit all my friendly gifts. The rest is dedicated to a passion so pure, so proper, so perennial, so plastic, so powerful, and, to carry the alliteration further, I will add, so *pernicious*, to young men, that I pause to hackle you on the subject. Now, sir, I accompany you on a visit to the fair, the girl you love, the angel to make home a paradise.

You see yon blooming girl in the party circle, so radiant with smiles, health in her cheeks, and beauty dazzling all beholders? Sweetly she sings, and, with seraphic touch, she wakes music from the piano or the harpsichord, to entrance every listener. How gracefully she declines to sing more!—her voice is injured by a cold: she is afraid to cause pain instead of pleasure to the company. Pressed on every side, all pronouncing her execution elegant, she resumes her music. Out gushes the melody, "Home, Sweet Home," and all hearts are filled with tender visions of the past, of the paternal fireside, where brothers and sisters, and father and mother, rendered home, the home of childhood, indeed sweet and happy. Then "Auld Lang Syne;" and all eyes overflow. "Oft in the Stilly Night" is warbled with a tremulous voice; and young men and young ladies, old men and old women, present, sigh as the shortness of life comes up in review,—the idea of lost friends, and that "we part to meet no more forever."

Perhaps you have been entertained by a planter, an educated planter, whose daughter has just returned from school, gay, lovely, and accomplished. Do you not worship her? Do you not think her an angel, who, wandering at twilight in search of a sister-spirit, missed her way, and dropped gently on the earth to represent the society of the skies and to gratify poor mortals with the sight of perfection? Now you want to hear another song, another tune on the piano,—other words: "Come, Rest in this Bosom." Why, young gentleman, you are crazy: that divine shadow, that music-spirit from heaven, those notes of celestial harmony, have addled your brain. Come, let me sober you by a cold bath.

The *fairy* was a veritable human being; yes, a woman; no goddess, no angel. Step with me suddenly into her father's house on business. She runs from us; but I had a glimpse. The dear creature thinks you are an angel, too, of the masculine species; and she will appear directly, with angelic robes on, angelic tresses, with angelic color on the cheeks, and a perfect angelic suavity of manner to kill you on the spot. Here she comes, even more graceful, more destructive in her charms, more Juno-like, than when you beheld her at the party. I wanted you to see her *en dishabille*, at her work-table, handling family garments, visiting the kitchen to see about dinner, regulating the furniture, and taking the

general care of the house off the hands of her aged and infirm mother. I wanted you to see beauty at home, as a daughter, a sister, a friend, a tender associate, that you might imagine beauty as a wife, as a—*nurse*. But I see you are absent-minded, paying no attention to me; and so I will let you off at present, with the understanding that I am to finish my discourse on *angels* at another time, when you shall have gained a little more self-possession, more command of your nerves, and more respect for my counsels.

Now, dear friend, I leave you in just such a reverie as I used to be in for hours, for days, for months, at longer or shorter intervals; and so fully impressed was I with the divine qualities of woman, and so humbly did I bow at her feet,—entertaining withal so poor an opinion of myself, of my person, of my worth,—that I was willing to draw for a wife in a lottery consisting of widows, old maids, pretty girls, educated girls, plain girls, all proper girls, mixed up together for Cupid to distribute the prizes by the fairest rules of chance. Be you assured that marriage is a lottery, with more blanks than prizes,—blank men and blank women in about equal proportion.

NO. III.

There is one obstacle to be removed from your path before you will make an effort, a strong, decided effort, to raise yourself in the world,—to assume that rank which it is not only your privilege, but your duty, to contend for in the battle of life. When I speak of rank, I mean something more, something better, than the artificial distinctions which prevail in society. For these I have a due respect; they are essential in some degree: but I would have you aim at a rank peculiar to the qualities, not the condition, of a man. It is a sad mistake, not the less sad because it is common, to suppose that the whole field of action, the ladder of greatness, is already full,—no room left for a new adventurer, for a fresh recruit on the roll of Fame. Be not deceived by this view of the subject. The way is as open, as easily travelled, as ever. It only requires a light to find it, to guide you safe; and that light is brave, untiring industry,—an upward mind.

It has been my fortune to see men of admitted distinction, and I beg to call over some of their names:—

General La Fayette, our national benefactor.

Three Presidents of the United States,—Monroe, Jackson, and Taylor.

Two Vice-Presidents,—Calhoun and King.*

Ten members of the Cabinet,—W. H. Crawford, Clay, Berrien, Branch, Forsyth, Badger, Bell, G. W. Crawford, Conrad, and Cushing.

Five Justices of the Supreme Court of the United States,—Johnson, McLean, McKinley, Wayne, and Campbell.

Major-Generals of the United States Army,—Brown, (hero of Niagara,) Butler, Smith, Wool, Kearney, Twiggs, Gaines, Quitman, Patterson, and Pillow.

Brigadier-Generals of the United States Army,—Shields, Lane, Towson, Childs, and Marshall.

I once heard Chancellor Kent deliver a lecture before the Law Society of New York, at Clinton Hall,—Kent, the American Blackstone; and I have frequently listened to Judge Gaston, of North Carolina, before the court and jury. He was truly a great man.

Other men of note I have seen,—among them R. Y. Hayne, George

McDuffie, H. L. White, S. S. Prentiss, Mr. Soulé, (our Minister to Spain,) Senator Douglas, C. F. Mercer, W. Gilmore Simms, John Stanly, D. H. Lewis, J. Hamilton, H. W. Hilliard, W. M. Inge, G. M. Troup, &c.; and several of these I have heard speak.

In the way of Church dignitaries, I have heard Bishops McKendree, Soule, Andrew, and Capers, of the Methodist; Bishops Ravenscroft, Polk, Elliott, Cobbs, and Hawks, of the Episcopal; and Bishops England, Portier, and the Archbishop of New Orleans, of the Catholic.

Of other eminent divines whom I have heard preach, I mention Bascom, Olin, Maffitt, Sehon, Scott, Hamilton, Staunton, and L. Pierce.

Presidents of Universities,—Brown, Waddell, Church, Dagg, Tallmadge, and G. F. Pierce, of Georgia; Manly, of Alabama; Longstreet, of Mississippi; and Swain, of North Carolina.

Governors, Ex-Governors, Senators, and Representatives in Congress, Judges of the Supreme Court of several States, and other personages of high position in the country, I have seen many scores.

In days of old I visited the theatres, and have seen the first tragedians of the age perform,—Cooper, Macready, Forrest, Booth, Adams, and Parsons, the latter now a distinguished Methodist preacher in Louisville, Kentucky, and lately one of the Commissioners on the part of the Church South to settle the great property-question in New York.

I will also include, as peculiarly gifted in their line, Finn, Power, Hackett, Barnes, Collins, and Placide,—the best comedians I ever saw on the stage. Poor Finn was lost on the steamer Lexington in Long Island Sound, and Power sunk with the steamship President at sea. They were both at the head of their profession; and it is melancholy to reflect that, after they had amused so many thousand people by their humor, they themselves should perish thus suddenly.

Do not imagine that I have paraded these names for any selfish object, to show the great men I have seen, as if the fact redounded to my honor. No, my dear sir; obscure as I am, my character borrows nothing from the reflection of mighty names; it stands on no such footing. My purpose is entirely different. I wish to instil into your mind this truthful idea,—that men at a distance appear greater, many times greater, than when brought face to face with you. I have heard celebrated men—Presidents, Heads of Departments, Governors, Foreign Ministers, Senators in Congress, and other eminent functionaries—talk; and very few of them came near the standard I had previously fixed in my mind of their capacities, address, brilliancy of conversation, variety of knowledge, &c. Mr. Clay was the only man whose greatness was fully maintained by contact. Fame is indeed a bubble, and in a majority of instances rests on a slender foundation,—a mere egg-shell. You see men every day,—neighbors, strangers, professional men, mechanics, artisans, editors, printers, merchants, planters, many of whom have better judgment than most of the reputed great men of the day, and about as much intelligence. Be you assured of this, and toil on, patiently abiding your chances,—the next breeze, the next eddy. Some accident may promote you, just as Sir Frizzle Pumpkin acquired reputation for calmness and courage when he was so bewildered that he could not escape from danger, though trying his best to do so.

What is the moral of all this? What lesson does it teach? Simply that Fame blows a trumpet with false notes. I have seen a stammering, clumsy mover of a resolution at some country meeting attempt to speak, and who did actually utter a few disconnected words about the "important

occasion," the "political faith of our fathers," the "tree of liberty," the "demon spirit of abolition," the "Virginia and Kentucky Resolutions of '98," and all that sort of thing,—not a line in good taste or pertinent to the question. I have seen in the next paper an account of this speech, "truly eloquent, a masterly performance," and opening the way to Congress! I used to be caught by such chaff; but I now have experience, and am no longer to be fooled by the crafty exaggeration of a mole-hill into a mountain, of pigmies into giants. I now see and judge for myself, without the phantasmagoria pictures of any showman. Believe me, I am not wholly innocent in this matter. I have contributed my share to these bloated fancies, by writing up character far beyond its just proportions, from the kindest motives. Other writers of more skill, and perhaps more unscrupulous, have played this game successfully on a wide scale,—have completely duped the public,—have held up men of straw as real worthies, possessing head, soul, intelligence, and all the qualities that constitute human greatness!

I would have you look within yourself and cultivate high purposes. Be not discouraged at big names and pompous titles above you. You cannot ascertain your own powers until they are put to a severe test, frequent trials. When a boy, you gathered up a handful of snow, made it into a ball, and rolled it on, and still on, as it accumulated in size and weight, until your strength failed to move it any farther,—it having increased to such magnitude. So let it be with your efforts to rise in the world. Be active, cheerful, always willing to roll yourself forward. Every act of business, every page you read, every conversation you hold with any one, your whole nature will tend to improvement. Napoleon began with his ball of snow at the military school of Brienne, and he kept rolling it until it prostrated thrones and empires. He saw nothing certain, nothing distinctly, ahead. Once in the current, he braved it like a hero. His spirit never quailed until it was extinguished at St. Helena, with words of command on his lips.

When Daniel Webster began his career, he saw not his way to renown. He put himself in motion, gathered force as he went on, and reached a point whence the intellect of jurist, statesman, and scholar never advanced in this life. A Webster you cannot be: still, aim as Webster aimed to make the most of his faculties. The reward will come, sooner or later,—fortune, influence, and happiness enough to satisfy the noblest ambition.

NO. IV.

I have now arrived at a point in this correspondence which calls for the utmost freedom on my part. You can weigh my suggestions, and either adopt them in whole or in part, or reject them altogether. The subject speaks for itself; and I do nothing but open the floodgates.

In my first letter I expressed the opinion that your comparative poverty would be of service, in forcing you to exertions which otherwise you might not be disposed to make. I know your pride of character, your high estimate of personal independence, and your dislike of every species of immorality. Were you less sensitive in this regard,—did you not cherish integrity as the leading trait, as the basis of all that is worth possessing in life,—I should not have the courage to address you on topics which an opposite nature could never relish. But, as I know you to be well balanced in principle, and willing to hear all that experience can relate in practical affairs, I beg to impress on your mind the nature and obligations of con-

tracts,—because, for the want of prudence in this matter, many well-meaning individuals have been mixed up in public opinion with a class who plunge into debt recklessly and seem to look upon their creditors as disturbing their peace without any right to do so. Excuse me if I illustrate the subject in my own way.

Suppose you, or any other young gentleman, were to issue this kind of paper:—"Within thirty days I promise to wed Miss A. B., she having given me her heart and all its affections." The time has expired, and you have not fulfilled your engagement. With an admission under your own signature that you possessed the lady's heart, (certainly a very rich treasure,) you are protested by Notary Cupid for non-payment, and your credit is gone: not a girl will notice you; even a widow of middle age will toss her head contemptuously at your advances. Now, you suffer justly. You have deceived a fair one, can render no excuse, and therefore you are placed in "Coventry,"—as military officers say when one of their number has dishonored himself by refusing to fight a duel, to pay his losses at gaming, or to redeem his pledge of any kind. They cease to recognise him as an associate. He is to all intents and purposes stricken from the roll of gentlemen. Thus you are in "Coventry" as to all love-matters, and never to be trusted with another "heart," with other "affections," to render life supportable.

You buy land, a negro, a horse, a carriage, goods of a merchant, borrow money, or become indebted for "value" in any other form, and you give your creditor this assurance:—"Thirty days after date I promise to pay C. P., or bearer, five hundred dollars, for value received." You carry home with you the property for which the note is given, and at the end of thirty days you fail to pay. Had you told your neighbor that you would keep a vicious animal of yours—an ox or a mule—from getting into his field, and he (relying on your word) had ceased to look after the trespasser, but in a week afterward, to his surprise, found the ox or mule had devoured every blade of corn or other grain, what would be the opinion of your neighbor? Could he not justly accuse you of forfeiting your word? or, in simple phrase, of telling a falsehood? Now, make the application to your promissory note, thus:—

I have worked the land, the negro, the horse, the carriage, and enjoyed the profits; I have consumed the goods, and used the money obtained from my neighbor, without giving an equivalent. When he called for his money, I neglected or refused to comply with my obligation. Where is the sanctity of my word? What is it worth? Cannot my creditor hold up my "promise" in writing and charge me with dishonor, with violating my engagement, in converting his property? Why is it less a crime in morals to fail paying debts when due than to be guilty of misrepresentation in any other form? Your creditor may have traded your note, endorsed it, relying on your punctuality; and afterward, lo! it comes back upon him when he has made no provision for your breach of faith. At the time he sold you his property on credit, he took you to be a man of truth, a gentleman; when he put your note in circulation with his endorsement, he gave another proof of his confidence; and now that he has to sell a negro, a tract of land, borrow money at a high interest, or intrude on the generosity of a friend to save him from distress, you look upon the whole proceeding—broken faith, holding another's property without paying for it, and thereby causing him great trouble and loss—as a perfectly fair business-transaction! All such conduct is opposed to true principles, to

justice between man and man. Would that all of us could improve our ideas, and our practice too, in this respect! We should then save ourselves and our creditors from many a pang; for this is an operation that, like an overcharged gun, destroys before and behind also.

You ask, do I really consider all who fail to pay their debts punctually as dishonest men, as men unworthy of respect, as men of bad character? Heaven forbid that I should insinuate so foul, so unjust, a charge! for I have known good men to be involved, some of them even to bankruptcy, without the least intention on their part to defraud or injure a human being. Their aims were honest, their plans reasonable, and the prospect fair enough to gain by trading, by speculation, to realize a profit and to fulfil their contracts promptly. As they bought on credit, they sold on credit; a circle of credits thus passed round and round, just as children with hands locked in a ring pull against each other: one falls and the others follow suit. Another familiar illustration is seen at ninepins: one pin is struck, and, tumbling on the next, the whole group is prostrated. Buying and selling on credit is a hazardous game of ninepins: a single blow often upsets all the men. Take the case of a merchant. He sells his goods on time, and, failing to collect, is unable to pay the importer. The importer in turn, being disappointed, cannot pay the manufacturer, who, also deceived in his collections, is unable to keep up his business; and down goes every man in the circle. The telegraph-wires when whole convey the electric fluid from New York to New Orleans in a moment; but let the wire be disjointed even one inch, and the operators may toil at their batteries a year without sending or receiving a solitary dot.

Promptness in all our dealings with each other would prevent the downfall of many an upright man. We are all naturally dependent in our callings one upon another, and it should be a matter of enjoyment as well as of principle to withhold nothing,—to square up fully the instant we have the power. I do not require from you impossibilities: only do your best. If you are blamed then, submit in silence, for it is not allowed a debtor to grumble more than any *other slave*; for when you and I go in debt we take on fetters, which have never been considered the badge of freedom. Our creditors are our masters for the time-being; masters of our own choice,—our bondage voluntarily sealed. Yet, should the worst happen, toil on, toil patiently for your creditors: justice is paramount. Keep away from idle resorts, from filthy grogeries: no medicine is there to improve an honest man's situation, to remove his difficulties.

The depreciation of property and other casualties often embarrass a man, a very honest man. Misfortunes gather on some more than on others. To all proper men debt is a galling bondage, an earthly torment. Though an honest man is full of anxiety from debt, and would give his blood if it could be coined into gold for his creditors rather than defraud them, still, debt is often an advantage, by stimulating a man to justify the confidence reposed in him. Who does not feel better after paying a debt? Perhaps a stranger calls on you with a note: you cash it on the spot, and pleasant emotions spring up in both parties.

On this subject you have much latitude, much to learn, much sorrow, much joy. I know your abiding integrity, your caution, your desire to keep free,—to avoid slavery more despotic than that of the cotton or the rice field. If you can pay as you go, if your business will allow this course, by all means adopt it. Then your rest will be sound, your morsel of food sweet, your mind happy. However, do not understand me to assert that

all rich men, all men free from debt, are happy, or even entitled to respect. My views in this particular are reserved for another communication.

NO. V.

I now proceed to give you my conclusions in regard to wealth,—how far it should be an object of pursuit, and to what good uses it may be applied; on the other hand, to point out the danger of cultivating avarice, and what rank a selfish man should occupy in the estimation of the world. Whatever may be the drift of my observations, I intend they shall have no personal bearing; for I do not paint from any single original, but from the group.

You have noticed how society courts the rich without deigning to inquire whether the individual has sense or principle. The idea at once prevails that he is able to do a favor,—to endorse a note, lend money, use his influence, or do some act for the benefit of the worshipper, the sycophant. Besides, there is a contemptible vanity in some minds to associate with rich persons in order to gain character, which their merit would not otherwise procure. This defect is so general, so much an element of mankind, that I beg to dwell on it as a topic for salutary reflection.

We are all so constituted as to sympathize with happiness, in whatever form it may exist; and we are all persuaded that the more abundant and refined the comforts of a man are, the happier he must be. Who can imagine distress of mind in the owner of a thousand acres of rich land in cotton, with one hundred slaves to work it, and a clear surplus cash capital of fifty thousand dollars in bank or at interest? Let us lay down a programme.

He may build a splendid mansion, and furnish it with Turkey carpets, elegant sofas, ottomans, velvet-cushioned chairs, marble centre-tables, mirrors of the largest size, reflecting every object in the parlor, from the carpet-flower and satin slipper of a girl, to the huge whiskers of the fashionable beau,—may fill his rooms with bedsteads from Paris, or the whole variety of Austrian art which took the premium at the World's Fair for the perfection of luxury in a sleeping-apartment. Then he may dress his wife and daughters in French silks, Brussels lace, Persian shawls, and Swiss jewelry,—a new carriage, fine match of horses, and a servant always subject to order, for the ladies to pay visits, or to go a shopping, or to take a little airing. A man who can thus make the ladies happy, the loved members of his household, surely cannot be miserable. Can we help touching our beavers to such a man?

What else can the owner of wealth do? He may erect cotton-factories, flour-mills, iron-foundries, variety-works, run all sorts of machinery, and give employment to many poor laborers. He may contribute to the building of churches and the education of destitute orphans; he may relieve from suffering the houseless widow and her starving children; he may assist in all charitable movements, and gain for himself the esteem of all classes, and, better than all, a consciousness of having done his duty. So much for wealth in the hands of a generous, upright man,—a man who delights in doing good, whose purest enjoyments consist in advancing the welfare of others. From this character—which is not altogether imaginary—let us pass to something we see daily.

You observe a plain-dressed man of middle age, stepping on the pavement with an air of importance? His lips are compressed, and he has no particular civilities for any person. He walks into a store, and inquires

about bagging and rope, negro-clothing, shoes and hats, weeding-hoes, axes, trace-chains, and the like plantation-articles, and tells the merchant that if he will take twenty-five per cent. less than his usual price he will make a large bill. Everybody speaks politely to this man, although he seems to care for no one but himself. Go to his house, and you will not find three dollars' worth of books there,—no newspaper for his sons, no magazine for his daughters,—no sign that he lives in an age of progress. His conversation is rough, illiterate, frequently defiled with profanity; and he reminds you of a wild bear snapping his teeth at every object within his view. This man declares that he has made his property, and is not going to give a cent to churches or to poor people, to support them in their laziness. Let the preachers go to work, let the poor earn their bread, as he has to do, and then there will be no necessity for begging!

Now, this farmer may be a very honest man, and perhaps owes not a dollar, and may have cash by him: yet what is there in his qualities or conduct to draw the marked attentions of men who would decline speaking to his superior in virtue and intelligence merely because he was poor?

Were I disposed to exhibit what I conceive to be the prevailing errors on this subject, I could satisfy you of one thing:—that wealth, though a blessing, is a false standard of character; that minds of a lofty order, capable of noble sentiments and deeds, look upon wealth but as a secondary object,—merely as an instrument to accomplish what talent and public spirit may devise. Yet it is impossible to separate intellect and property without damage to both; for, as neither by itself is available in the highest degree, I would have the two united to produce the best possible result. At your time of life, and in your situation, with every thing to gain, I would advise you to adopt the mental process, if either mind or matter has to gain the victory over you. My reasoning shall be brief.

There can be no brilliant success without a master-passion. Now, if you give up your soul to money and the arts and trickery by which it is gained, you will in the same degree neglect the cultivation of your intellectual powers. The latter must be taken early in hand, or they will become rigid and insensible to culture. I know rich men in Georgia, owning a hundred slaves,—men of admitted wealth in other respects,—who cannot write their names. You scribble off a letter to oblige one of these men, or let him see a rapid use of the pen; and he will be very apt to say (as I have often heard such declare) that he would give half his fortune to write as well. There is such a thing possible as a man of superior intelligence and business-qualifications rising from poverty to wealth even in his old age; but there is not an instance on record where a miser or rich blockhead ever disturbed his brain in the pursuit of knowledge at such a period.

If practicable, live within your means, avoid speculation, and devote all your leisure to study. Read the debates in Congress, past and present,—the speeches of Calhoun, Clay, Webster, Everett, Cass, Clayton, Hunter, and men of like calibre. They condense the argument in a small compass, present it forcibly, and use pure English. If you can obtain the Treasury Reports of Alexander Hamilton and William H. Crawford, peruse them carefully,—not for the statistics, however reliable, but for the lucid statement and cogent reasoning with which they abound. Once imbue your mind with solid and you will never relish superficial matter. Other suggestions as to reading will be given at a future time.

On the score of riches and poverty, allow me to say that both make the

man,—the most complete man. He who has experienced both, and is at last anchored in wealth, or even competence, will be the happier, the more worthy of respect, by uniting with his good fortune a love of books, a spirit of kindness toward his fellow-men. All honest men cannot be rich; nor does it follow that all rich men or all poor men are honest. Be brave in misfortune should it overtake you. Some of the purest men who ever lived—many public benefactors—died in penury. The famous William Pitt, Prime Minister of England, did not leave an estate sufficient to pay his funeral-expenses; and Robert Morris, the great financier of the American Revolution,—the man who supplied General Washington with funds to keep our army in the field,—in regard to whom the question has been asked “Whether Robert Morris, by his wealth and financial abilities, or General Washington, by his military skill, contributed most to the establishment of our national independence?” Still this pure patriot suffered reverses of fortune, and the venerable Robert Morris died in prison for debt!

In all your trials and vicissitudes, hold on to your integrity and hopes. Other losses may be repaired; but these are hard to recover. Bold resolves and constant action in the line of duty will secure prosperity just at the very time when you are best qualified to enjoy it, to make it most beneficial to others as well as to yourself.

NO. VI.

Before I proceed further, it is well to state the preparation you will have to undergo in order to attain solid eminence in any pursuit. There is a fragment of time in the history of all young men—say from nineteen to twenty-four years of age, (at least, such was my experience)—when greatness *asserted* its dominion: the intellect ranged high, the passions glowed with intensity, the heart revelled in sweet dreams, and all nature offered contributions to make life an unbroken round of happiness. Every individual who pressed my hand cordially and looked kindly in my face was my special friend. If I ever needed a favor, surely he would be delighted to render it, and thank me for the opportunity. A whisper of regard from an aged man was the sure token of discovery on his part that I was a youth of rare promise. I felt encouraged to look up, to strike for excellence, to apply myself to some ideal object beyond reach, that, in struggling for light, the full blaze of intellectual development, the fruition of my vagrant hopes, I might by chance be elevated to genteel mediocrity. I was conscious of my defects, my poor education, my inability to perceive and arrange facts in a method to evolve the proper conclusion, the truth itself, from any intricate statement. Still, I must strive,—if not in the regions of argument, at least in the vivacity of letters,—in that silvery atmosphere of the mind which shows off feebleness to the best advantage, hides stupidity under a grave look, and, beneath the guise of diffidence, conceals an amount of ignorance too vast for confession.

Here is myself laid open,—what I was at twenty. I have been descending ever since lower and lower in the scale of superiority. I shall never be half so wise again. My *greatness* perished with my youth. For you, however, the prospect is more cheering. When I was a meteor, illuminating the horizon of my own vanity, you crossed the equinox—sweet twenty—not long since, without exhibiting that *sublime maturity* of the faculties so evident in my case at the same age. Hence I have had my

day in court, as the lawyers say, and I now stand off to witness your trial of strength. Gird up for the conflict, and hearken.

Necessity, bad fortune, failures, every kind of suffering, that of wounded pride, ambition,—the heart bruised, hopes crushed,—all must converge in your path to establish your manhood. You must live in darkness, grope in the twilight at noon,—must shiver in the cold and melt in the sun,—know all temperatures of the heart, the brain; you must be assisted by friends, then forsaken; flattered, then abused; loved, and then hated; you must rely upon yourself, and then feel your own weakness; blaze up, then languish. In short, agonies of mind and body, alternations of hope and despair, of defeat and triumph, must keep you in a state of cohesion. These must be the timbers with which to construct your edifice of character.

The builder sends to the forest for his materials. Trees, large and small, are cut down, hewed, sawed up into all sizes, and brought home. He looks at the sills, the sleepers, the plates, the joists, the studs, the braces, the corner-posts, the door-posts, the rafters, the flooring, the sheathing, and the weather-boards, all piled in confusion. The house is there; every particle which is to constitute the graceful mansion is on the ground ready for the workman; but, in the mass of scantling and boards of all lengths and shapes, you, unskilled in the use of the square, the saw, the auger, the chisel, do not perceive the relation of every piece to the whole building. But the operator strikes the first blow, and then another, and so on, by rule, until he fits all for their several places. Then the house appears,—is finished. So of character. The odds and ends, the trifling events, the good fortune of one day and the evils of another, the failure of one experiment and the success of other attempts, varied perhaps by the lessons of the past, the vigor of health and the debility of sickness, this scrap of knowledge, that hint from adversity, the injustice of a foe and the aid of a friend,—all conduce to form character, to regulate habits, to mould the man, who, like the sturdy oak, has to brave the tempest and grow still stronger and deeper the more it is rocked. Thus motion gives solidity to a man. The huge cannon-ball at rest is a harmless thing; but give it impetus from a gun, and the castle's wall or ship's deck shows instant damage.

Under this figure I beg to awaken the liveliest impressions on your mind. What if you are tried,—sorely vexed; the rich frown upon you; all your plans turn out contrary to your desires; nothing works right; temptations assail you constantly, alarm you, conquer for a season; you have no bosom friend to listen with sympathy to your grievances, or to console you under them? Let all these influences, and still more of a kindred tendency, bear against you; and what is the truth? They are the materials, the fragments, to make you a man, a genuine man. Without them, you can no more resemble Berrien as an orator, Nisbet as a jurist, Wilde as a scholar, Charlton as a poet, and Seaborn Jones as an advocate, than a sprig of mustard resembles the giant oak. There is a secret in this ordeal, just as the refiner subjects impure metal to the action of heat to separate the alloy. You are passing through the crucible now, and you will yet have to pass through it many years to come, yea, even all your life, to reach the highest value, to possess the true gold of character, the basis of all excellence. But the task is not half so frightful as you and other young men are apt to imagine. A willing mind, a passion for activity, a heroic patience, a firm determination, are the only ingre-

dients; and surely you had rather nurture these, which soon afford pleasure in the ratio of their exercise, than to be moping about like an old woman muffled up from the toothache, telling others how *mighty bad* she felt! Keep your troubles to yourself; you have no right to inflict them on others, except to a chosen friend. They are then sacred, and you will feel the better.

You inquire, then, Is there no way of escape, no privileged by-path or short road, by which a youth may arrive at usefulness and enjoy the brightest rewards of life without this terrible probation? I frankly answer, there is none. You cannot even remain stationary: you must either improve or retrograde. The mind must be in action all the time, for good or for evil: there is no middle course, no compromise. You gain or lose strength every day, just as you employ your time. Ponder well this truth: on it hangs your destiny. Keep the fires of your soul, the energies of your mind, always up, and the moral engine will move freely. The external world, friends, business, the future, your duty to God, to man, to yourself, are all topics to supply you with influences, the motive-power to propel your brain and affections with the right force. Written language is too feeble, too cold, to admit of the stimulating rules on paper. Indeed, I am not the man, either by pen or tongue, to rouse you to the work of self-preservation,—to victory. I am afraid that my teachings will have a less beneficial effect on you from my poor example. But you should remember that I attained the acme of *my glory* at the tender age of twenty years, and that all my available powers were consumed in the sky-rocket exhibition I made of myself about that period. I was the only spectator who beheld the sight distinctly. You are not so precocious: you continue to grow, and bid fair to rival the oak, while I withered like any *other vegetable* of a summer's growth, and there is nothing left of me but these poor dry leaves for you to gather up and preserve when I shall be in the grave.

The hope of serving you—and, it may be, by the publication of these letters, of inducing some other young friend or dear youth to pause and consider before it is too late—will tempt me to still further efforts. Though my counsels may be trivial in merit, still, it has cost me many bitter years of experience to obtain the key which I now present to all, with friendly directions to use it in securing happiness.

NO. VII.

It is proper for you to know all about life,—to experience more than you are willing to encounter,—to dive into deep caverns, as well as fly to the hill-tops, in order to take a broad view. You would fain rest between the two extremes, just on the happy line where riches neither surfeit nor poverty extinguishes the taste for enjoyment. You desire peace of mind, and the question is, how shall you obtain it? Bear with me if I am a little extravagant in my terms, if I combat all your preconceived opinions on the subject.

I know your ideas, for I have heard you express them, relative to property, education, refinement, success, honor,—all following each other as a matter of course; and that if a person happens to possess the corner-stone, wealth, he can found as much happiness on it, as much honor, as any reasonable man ought to wish. In short, you believe, as a large majority of mankind persuade themselves, that wealth is the only source of happiness, in this:—It will procure you good eating every day,—roast beef, pig,

turkey, veal, mutton, wild game of all sorts, all the fruits of the tropics, oranges, pineapples, nuts, and other delicacies of the kind, besides all the productions of the orchard and the garden in our own country.

Now, your mouth begins to drip at this bill of fare. Rich as it is, you think of adding some good old wines, claret, madeira, sherry, Johannisberger; and it may be you would like to sparkle up with champagne, for the sake of the delightful visions it is capable of producing. At this stage of the banquet you could relish a song,—yea, become witty and musical in a high degree, and forthwith some one or two, or all, of the company, fall to making noises, and the “Marseilles Hymn” points to Cuba, Sonora, and other *barbarian* spots of the world, as the rightful heritage of the “Sons of Freedom.” Then “Bruce’s Address” fires you all up with desperate energy. “Wha would be a coward slave, let him turn and flee!” Here begin the Lopez and “President Walker” exploits. Large territories are seized by a dinner-proclamation, and you are all Generals, Presidents, Ministers of State, in imagination,—the only tenure by which you and your braves can ever hold office, so long as you allow the “swell-head” fancies to disturb your brain. You must cast them off, as the lion shakes the dew from his mane, and come out a rational being.

Let me ask you, in all seriousness, are you content to barter off your native sobriety and manliness,—the upright will, the calm reflection, the noble motive, the strong desire of excellence, ever at work in the minds of youth properly trained,—are you willing to sacrifice all these qualities, these teeming sources of future good, merely to obtain the privilege of converting the divinity within you into the coarseness of the brute? Startle not at the picture: it is true, and I regret that it is true. For my sake, for the sake of your father’s memory, the hopes of the future, both in this world and the next, no longer tolerate the silly notion that wealth is to be preferred and sought above all other objects because it will enable its possessor to live in ease, to avoid the labor both of mind and body which human weakness so much dreads in passing from the cradle to the tomb. I tell you, with the utmost solemnity, that no error is more palpable, more destructive. Adversity is a friend, not a foe. Rather commiserate the rich young man who is indulged with late morning naps, delicate viands, servants to execute every order, from loading guns for the chase, getting ready the fishing-tackle, and the carriage to ride in, and, when the *exhausting* work of the day is over, to bring refreshments and put him to bed! What chance is there for such a youth to become a man of action, a leader in public affairs, or even qualified to make a good justice of the peace? I would not give a bushel of guano or any other strong fertilizer for a regiment of such beings. They are ciphers in society, consuming the products of other men’s labor without yielding the least profit in any form whatever. Miserable creatures, they have been made worthless by possessing what you and I so anxiously desired,—rich fathers and plenty of leisure, every thing at command to make us *gentlemen* from the time our mothers equipped us in the first suit of male clothing.

Yet, in spite of this evidence, this certain effect of riches to keep young men from developing their mental powers, we all crave property for our children. We strive to obtain all we possibly can, to give them a favorable introduction, to open their way, secure respect, and surround them with those appliances which promote comfort and gratify pride. In theory I condemn all this,—all truckling to such influence,—and claim to be a philosopher, *on paper*; yet in practice I am a thing of small value,

just as little benefited by experience as you are likely to be after all this *edification*. Pardon the remark, however, that, had I been specially lectured and admonished in my youth by a man in whom I had confidence,—by one who had passed through as many trying vicissitudes as you know I have passed through,—a man endeared to me by many sacred memorials,—I verily believe I should have accepted his tender of service and navigated my bark within his soundings. Why should you distrust me? What motive can possibly induce me to alarm you without cause? I see you nearing the rapids; and I, your friend, your father's friend, one who vividly calls to mind the innocence and promise of your childhood,—I look on, while you, and others of the same age and disposition, are drifting in the current, soon to rush over the awful Niagara: I call at the top of my voice, I speak to you in trumpet-tones, to strike for the shore and be saved.

I beseech you not to feel aggrieved at the earnest figure of speech I have used, nor infer that I see any thing in your conduct to authorize rebuke. No, my dear friend: nothing of the kind exists. You are sailing on a smooth lake, fed by rivulets of crystal purity; your habits are above reproach, and I know your principles to be upright, your future encouraging. But I wish to keep you in a regular course for the intended haven,—to give you the latitude and longitude occasionally, that you may know the moral compass is to be relied on. I am a veteran on the sea of life, a weather-beaten tar, who for months and years have been driven at random, sometimes on the stormy Atlantic and then on the calm Pacific of human adventure. I have struck on concealed rocks, and dragged on many a sand-reef,—have been wrecked, and have been saved by friendly hands. Here I am to succor you in the gale, to launch my boat for your rescue,—another Capt. Creighton, of the "Three Bells," to stand by you for "humanity's sake" as wave after wave parts the deck of your "California" vessel. Be of good cheer. As I sail along your coast, I shall hoist friendly signals now and then, to remind you that I am hovering for your preservation and that of the young crew exposed to the same peril. Each of you possess elements of wealth, of happiness, within yourselves, of far greater value than the golden rocks of that "California" to which your fond vision is turned. It will be my aim, it is certainly my desire, to reduce those elements to practical use. The task is worthy of a more skilful mechanic in building up character; yet I shall do the best I can in performing it.

NO. VIII.

I now present the main question, What are you—what is every individual sent into life—to accomplish? Follow me patiently, though I may not conclude the examination in this letter.

All men possess the same material organization, the sense of hearing, smelling, seeing, tasting, and feeling; yet you know there is a great difference in their conduct and fortunes. Some are content to remain stupid; others dash off with fiery zeal in the pursuit of knowledge. Some covet riches and devote their minds to nothing else; others are hurried on by impulses which they cannot reduce to system: they want every thing in the main, and aim at nothing in detail. Improbable as it may seem at first view, there is more hope, more promise, more ability to achieve great ends, in this class than in the dull, sluggish, provident meat-and-bread sort of people, who bestow no attention upon the improvement

of their minds, but remain ignorant and ridiculous all their lives for the want of a few lively ideas, a few trains of thought, which would have stirred up their dormant faculties and led to the *useful discovery* that they had intellect capable of expansion and a soul of mysterious power. Those having illiterate parents, who cling to the *good old fashion* of having no book or newspaper in the family, who make no progress in any thing, not even in managing their farms or fencing in their yards, have no glass windows in their dwellings and a pole to hold back the shutters, merely because their "fathers" did so before them, deserve to be pitied. Such are very apt to perpetuate the generation of "hewers of wood and drawers of water," or at least to cast on society a set of men, women, and children whose aims and enjoyments are of the coarsest texture, with a tendency downward.

I ought to know all about this matter. My lot was humble, obscure; not a family within ten miles, in a populous neighborhood, possessed a single member, old or young, except two or three ladies, who valued intelligence, or, at least, who possessed any. Still, they were clever, kind-hearted, honest people,—raised corn, wheat, potatoes, cattle, hogs, poultry, and garden-articles for their support. They had plenty. Ah! just to think of these simple, easy times,—these contented folks,—old men telling about the Revolution, but could not describe any battle or event so as to give a correct idea of it! In their day, no schools dotted the land as now. Most of these veterans were unable to write or even read. Think you the late war with Mexico would be so imperfectly represented by the soldiers? Education, a plain, solid amount of knowledge, is now common everywhere. The schoolmaster is abroad, and is decidedly a more respectable gentleman than he was in my *old field-college* days, when my best teacher kept a jug of whiskey at his bedside all night, and often waked up to take a swig! Dear old T—s! He flogged me once for hunting birds on Sunday, though he loaded the gun and sent me on the expedition. Unfortunately, I returned home in the public road, and *therein* was my crime! He repeated his orders that I was at liberty to hunt squirrels, rabbits, or whatever game I pleased on the Sabbath, so I would not let people see me; but, if I ever showed myself in the road, he would stripe me again! From that time I ceased to profane the Lord's day: the curious morality of my teacher shook my confidence in him as a spiritual guide.

But this digression is rather personal. Still, I desire to continue it briefly, to awaken in your mind proper sympathies to grasp the truth as it blazes from the wreck of my youthful companions. If allowable, or, indeed, if it could answer any useful purpose, I would give the names of all my school-mates and the boys of my neighborhood, so far as I remember them. Of the one hundred or more within this circle,—within the range of my visiting,—not one has risen to eminence, not one has applied himself to letters, not one has excelled in any liberal pursuit, though a few have acquired wealth, and one of them has been to the Legislature. Most of the poor fellows are dead: some met violent deaths, some of them had sons who fell in Mexico, and some of their wild boys went to sea as sailors. Two or three have succeeded in trade; but far the largest number have dwindled down to "hog and hominy" as the happiest station on earth, and their descendants are likely to keep up the old landmarks.

Now, you despise me for this confession,—for my impudence in trying to advise you, when it is reasonable to suppose that I am no better than

my school-mates, my neighbors' children, among whom I was raised, and whom I describe as wanting in cultivation. Even so. I am no better. I claim no superiority. They moved along in their native channel. When I look back, I see their fields, their dwellings, their children, and the turf-covered grave, all touching my heart in sad recollection. Such has been the fate of many of them. But the picture is disagreeable, and I draw the curtain over it. I mourn whilst I chronicle. I am the only one of that group of a hundred boys who, by accident, became devoted to books; my first reading for information being that of a newspaper left weekly in a little box at my father's gate by the mail-rider.

It is time I make the application. While I have nothing to boast, my example is before you. You know my defects: they are many. They have entailed on me suffering enough to kill a dozen sound men. None but a tough, withered invalid could have borne up under them; none but a poor enthusiast who clings to the belief that man has a spirit able to subdue difficulties could toil on and hope for deliverance at last. Honor I do not seek; fortune is hard to realize. My only aim is to make the most I can of my poor talents and opportunities, that, when I pass away, you and other young men will regard me as a friend,—as one who opened his heart and gave you the best advice in his power.

What was I born for? Why are you in the world, struggling with its anxieties, the ups and downs of life? The philosopher and the fool can only answer, We are here because we could not prevent our birth. Life is a gift, and may be made a blessing or a curse, just as we use it. Think not that the troubles and vexations we encounter daily are in vain. They are the tonic of life; they impart vigor both to mind and body. But for these our existence would become dull and tiresome; there would be no variety to enliven, no play of the passions to stimulate us. Yet I confess that if I had my choice I would take a smooth road, with no rocks, pits, or brambles to annoy me, though I fully believe "it is good that a man bear the yoke in his youth," even through life, to make him gentle and patient. He that is a stranger to trouble, to hardships, to self-abasement, is not likely to fathom the depths of life, to bring up its pearls and its gems from the hidden caverns of the mind,—the great storehouse of excellence. Until a man is ground up in the flint-mill, until he sees much, endures much, he is not ready for the highest efforts of which he is capable. There is some danger in this process, I grant. In passing through the mill of adversity, the soul, the courage of man is sometimes crushed; as, for instance, being a little hurt, he takes a drink to cure him, or he hates mankind and gives up in despair: either remedy—liquor or despair—is certain destruction.

I have heard and read of plans, of exact systems: so many hours for this object, so many to business, so many to recreation, so many to sleep,—and they look well on paper; but I have never been able to preserve any method in the use of time. I could divide it well enough in theory without mastering the practice. Who, exposed as I am to interruptions, to the calls of men, some on business and others because they have nothing to do,—who, thus situated, could ever adhere to system, to particular hours? Often a man drops on me immediately after breakfast; and, if I am polite enough to converse with him, though I pause for him to disburden his conscience, he holds on until the dinner-gong frightens him into a declaration of his business. I am fond of society; it has given me all the little stores of pleasure that I possess; and, when I can escape from labor, it is

refreshing to talk in a lively, careless sort of manner with well-informed, even illiterate persons, if they have good, common sense, or any ideas at all. Have you not been in the company of men, however, who were so insufferably stupid, so given up to ignorance, that you could not interest their attention by your best endeavors? Such people may be very harmless, but they are awful bores. I always treat them civilly; and sometimes when they remain too long to my damage, and they won't take a hint otherwise, I leave the room with an apology of business; and then, after an hour's absence, I have found them still where I left them. Job had no such idlers to try his patience. His three friends were excellent talkers, and they and Job kept up a remarkable conversation for several days, much for the benefit of mankind.

Bear these and all other tribulations, after the example of Job, without a murmur. All men generally do their best. Circumstances make the difference,—a topic which I shall press at another time. Now, hold up your head like a man, and, come what may, good or evil fortune, never be depressed in spirits, never think of yielding to difficulty. The brave alone are sure of conquest.

XI.—REVIEW OF GOV. GILMER'S BOOK,—“GEORGIANS.”

(From the Southern Recorder, July 8, 1855.)

GOV. GILMER'S BOOK,—“GEORGIANS.”—Without reference to what has been said about the volume written and published by Gov. GILMER, we venture an humble opinion for what it is worth. We sit in no chair of criticism, and pretend to no authority in letters. Our aim is simply to do justice.

A book is put into circulation,—a queer sort of book, to-be-sure, abounding in family records, neighborhood-chat, and a variety of matter,—childhood, farming, love, politics, marriages, elegant society, plain customs, law, Congress, Indians, public functionaries, individual qualities, compliments, pretty women, ugly men, high-bred Virginians, respectable persons from other States, good housekeepers, pleasant wives, worthless husbands, dutiful children, and a hundred other topics introduced with conversational freedom. Such is the character of the book we propose to examine. It is no thunderbolt; it is no zephyr. It is between the two, more as a fireside talk, where heroes, statesmen, and scholars lay aside their public masks and open their hearts in rambling good nature and frank sincerity.

Honor to that man who mystifies not,—who, feeling within himself a love of simplicity and truth, scorns to disguise objects in the glitter of composition, as most authors unfortunately do, from a mistaken pride of style. The world is full of splendid trash,—books by the million, chaff by the ton. History is no longer reliable, the author being so anxious to show himself that his facts are doomed to play a subordinate part. The volume by Governor Gilmer has no kinship with such productions. He betrays no fondness for fine writing, as such: he writes correctly enough, and with spirit; yet we lose all thought of him in the flood of materials gushing from his memory. He is the living record of all Broad River transactions, from the time Col. O'Haggerty's grandfather left Ireland and settled on the Rappahannock, and thence on Broad River, down to the marriage of his daughter Sophia with Dick Stapleton. Then follows a catalogue of the young Stapletons. Tom went in the army; Charles tried college, but left in his Junior year, a decided blockhead. Wesley took to preaching, married the widow Scott's daughter Peggy, by whom he had

eleven children, and then died, leaving them a slender property. Kate Stapleton, the eldest daughter of Dick, married Judge Wilson, and, after living five years a most affectionate wife and mother, died on a visit to the White Sulphur Springs, in Virginia. Judge Wilson's second wife was Harriet Wildstar, whose great-grandfather emigrated from Wales, and who, while detained in London a few days for a vessel to the American Colonies, had the good fortune to see the axe which beheaded Charles I. The axe is still preserved in the Tower, and was seen by Mr. Randolph in 1820. Mr. Randolph was a good judge of metal, having the fine English armor of his ancestors, of massive polished steel, in the old family mansion. Besides, Mr. R. had a brace of pistols of genuine Damascus twist, which he handled with matchless precision.

Of course we do not copy the words of Gov. Gilmer,—only his method as a specimen. We have heard of a "family tree," and our imagination supplies one from the pencil of Gov. Gilmer. Planted in the fertile bottoms of Broad River, it luxuriates into limbs and branches, and foliage and fruit, so extensively, that all Georgia, besides a good portion of Alabama and Mississippi, are furnished with healthy scions for grafting, and the best seed in the world for propagating good society and large fortunes.

Such was the Broad River Colony. It is mostly dispersed, its members gone to other States, many of them dead; and all have their names rescued from oblivion by the friendly hand of a lover of his race. We have met the Broad River people in scattered groups, talked with them, and shared their hospitality, without knowing the distinction which attached to their original locality. They were indeed clever, as described by their subsequent historian. Many excellencies which then escaped our observation are now quite palpable to our judgment.

We thank Gov. Gilmer for his book. It has been said by some of his friends that it has injured his fame,—there is too much gossip in it, too many hearts wounded, too much of the old man's infirmity. We dissent from all these imputations. Of itself, and on its own pedestal, it is worthy of respect. It differs from all other books; it is the beginning and end of a peculiar freedom of the press, which, as an experiment, will scarcely be repeated. The author was full of images, and overrun with facts. He was besieged; he found no rest.

Writing them down, by way of depletion, afforded some relief; yet the Broad River community, with their forests, fields, and cabins, log school-houses and rough hospitality,—with their whole issue of children and grandchildren, intermarriages, and associations thus formed, illustrated by pedigrees from English knighthood and Indian princes, including humbler degrees of ancestral reputation,—all had to be noticed; and nothing less than publication would answer. Gov. Gilmer is no voluntary author: the book was extorted from him.

We admire it for one quality: the author is so lost in his materials that we never think of him as an ambitious writer. Gov. Fury, Gen. Bragwell, Col. Bluster, Maj. Flint, and Capt. Steel, with most of their acquaintances, figure so prominently that the author is thrown into the shade. He is so conscious of this inferior position that he tries to get up a distinct chapter or two about himself, his early struggles, his services in Congress, his election as Governor, and his policy toward the Cherokees; but he has written up others to such a height above him that he cannot emerge from his rustic lodge; he is the least character in the book, although he affects to think generously of himself. Some readers imagine

that the author is the hero of the volume, and that all other personages and incidents are but secondary to the principal. This conclusion is plausible, we confess : still, it is alike erroneous and unjust. Gov. Gilmer was under no necessity to fabricate a name by any indirection. He was favorably known throughout the Union, and his eccentricities were relished, because from a noble heart. A petulant word occasionally might well be forgiven to one who had never been free from bodily suffering a single day in his life.

To sum up the characteristics of the volume, we have to circle, cross-drive, dash off at sharp angles, and then gallop, then pace, then halt, and look behind and before, above and below, to comprehend within the range of vision the droll array which the mind of the author has conjured up for public inspection. That he may have misunderstood the motives of some men to whom he has alluded, and that he has also been occasionally deceived by appearances,—as the wisest men are liable to be,—we readily admit : still, we maintain that there is nothing in his book, taken in connection with Gov. Gilmer's known frankness and integrity of character, which should detract from his fame, or justify the denunciations and ridicule which have been lavished upon him. He is a noble Southerner, a noble Georgian, whose public services and spotless name entitle his old age to the veneration of all classes.

XII.—LETTER TO B. H. OVERBY, ESQ., ON THE GOVERNOR'S ELECTION, 1855.

(From the Southern Recorder, October 30, 1855.)

B. H. OVERBY, Esq. :

DEAR SIR :—The battle is over: victory imposes on you no inaugural Banners, and music, and guns at midnight, proclaim another favorite with the people of Georgia. The Executive term has been renewed, with a potent expression of the popular will, to the fortunate incumbent for two years longer. Faithful or not, whether a wise selection or the contrary, he is chosen ; and no one more cheerfully submits than yourself. In fact, the signs have never been very encouraging to the cause of "Prohibition," either before or since you became its nominee for Governor. Nor did you take the field with the hope of success. Your aim was higher ; and you have gone through the campaign, not with the laurel of triumph, it is true, but with conspicuous honor and credit, such as upright men of all parties will ever respect.

I will not wound your sensibilities by any pretended condolence on your defeat ; for really your work, your late mission of labor and love, is spreading its influence to the breaking up of the old mass of granite, the tippling-shops, which had crushed so many tender hearts. You have proved a public benefactor. The hundred and score addresses you made during the canvass, in all quarters of the State, still echo in the breast of thousands who listened to your manly arguments and soul-touching appeals. You painted humanity as it suffers,—as it drags through the mire of intoxication. Even now your eloquent voice, its deep pathos and imploring sweetness, tremulous with emotion, lingers in my delighted memory. Blessings have been invoked on your head by many a parent, by heart-broken wives and neglected children. Tears of gratitude have flowed at the mention of your name, and bright hopes are cherished that the cause of which you were the champion will ultimately prevail. Be of good courage, soldier of moral progress: the dawn always succeeds the darkest period of the night.

The vote you received is no indication of public sentiment in relation to liquor-shops, the festering nuisance which you strove to abate. There was an issue pending which absorbed many thousand minds in another direction, depriving you of a large support to be rallied on a more auspicious occasion in future.

Personally, you have nothing to regret in this matter. The ceremonies of inauguration, the escort of committees, the retinue of State officers and high judicial functionaries, in presence of the two Houses of Assembly convened for the pageant, all set off by the splendors of a crowded gallery, where angel woman presides over the scene, could afford you no gratification, except for the welfare of others, were you the centre of attraction. Believe me, sir, you stand to-day on more enviable ground. No forced smile or reluctant civility is wrung from you by sycophantic suitors for patronage. You are free, the equal of any man in heroic virtues, and far in advance of a thousand politicians in Georgia who assume to direct public opinion from a principle of which selfishness is the soul. I extend the remark as much to one party as to the other: they are both *patriotic*, both *unscrupulous*, as the late contest has fully demonstrated. I gave my vote to you with all due respect for your competitors. One of them is exalted, and the other is too wise to be cast down. You are on a rock far above the storms of faction. I sit at the base and drink refreshing nectar from your example.

And now, on reviewing the struggle, I have this consolation in your behalf: The fountain of iniquity has been pierced by your valiant sword, and its bitter tide will flow less and less, until finally exhausted by legislative wisdom. In your happy retreat, or in whatever situation the God you worship may call you to labor, you will ever be remembered by grateful multitudes, especially by the women and children of Georgia, for whose benefit you girded on the armor of "Prohibition." The incense of their prayers for your welfare will not be despised by Him who has commended the widow and orphan to our sympathies. Servant of God, friend of man, rejoice at the good you have accomplished, which, like bread cast on the waters, will be gathered many days hence, when the grave shall be your mansion.

I have chosen to submit this letter to the public before it reaches your eye; nor shall I apologize for the liberty. I am, dear sir, gratefully,
your
FELLOW-CITIZEN.

October, 1855.

XIII.—LIBRARY OF PAMPHLETS.

(From the Southern Recorder, January 9, 1855.)

LIBRARY OF PAMPHLETS.

MESSRS. EDITORS:—There is a kind of reading-matter which, having answered its purpose for the time, is generally cast aside as useless, and in nine cases out of ten is lost or destroyed,—when, in fact, it is the very cream of history, the living record of events as they occur in the political and social relations of men. Let me give you an example for what it is worth.

More than twenty years ago, I commenced saving all the pamphlets which came into my possession at different times, had them bound, and now they amount to fifty large volumes. You would be amused at the variety. I will class some of them.

1. On the Old and New Treaty of 1825: Gov. Troup's controversy

with President Adams; quarrel with Gen. Gaines; charge and evidence against the Agent; report of Cols. Jones, Torrance, and Williamson, Special Commission to investigate the subject; particulars of the death of McIntosh; Executive orders to the Generals of Divisions, &c. &c.; survey and lottery of Creek lands.

2. Nullification movements: progress of public opinion; proceedings of South Carolina; proclamation of the President in 1832; intercession by Virginia; journals of the several Conventions; speeches of Carolina Statesmen; letters and State-Right meetings in Georgia; journal of the Anti-Tariff Convention at Milledgeville, Nov. 1832, from which Mr. Forsyth and his adherents seceded.

3. Speeches and reports in Congress on the United States Bank: removal of deposits; adoption of pet banks; orders of the Secretary of the Treasury to discount freely; panic of 1837; action of Congress on the Tariff; Oregon question, 54 deg. 40 min. *rs.* 49 deg., and that class of measures.

4. A complete history of Rhode Island affairs: report in Congress of 1075 pages, setting forth the evils of the Charter Government; the efforts of the people for redress; new Constitution; Gov. Dorr; list of voters; indictment for treason; proclamations; army-orders; message of Gov. Dorr; storming of Chepachet, June 28, 1842; two Governors and two Legislatures at the same time; contest for supremacy; flight of Dorr; triumph of the law-and-order party; arrest and trial of Dorr; message of President Tyler, &c.

5. Documents relating to the Cherokee Indians: treaty; gold-mines; armed guard; conviction of the missionaries; of Tassels; writ of error from Supreme Court U. S.; action of Georgia authorities on the subject; removal of the Indians; survey of lands; lottery, &c.

6. Finances of Georgia: the report of Messrs. Berrien, Holt, and Chapell in 1838, under a special commission to investigate the sources of revenue and devise a plan of taxation; (this is a very able paper of sixty-four pages, and contains much useful information); railroad reports; bank-statements; State debt, and official proceedings of the Cotton Convention at Macon, 1839, in which four States were represented; T. Butler King's report; Letter of Gen. James Hamilton on European Factors; Cotton Circular; post notes, &c.

7. Education and Literature: addresses at college commencements in several States; catalogues of universities, female colleges, seminaries, &c.; 4th of July orations; cause of letters supported by champions with pen and tongue,—E. Everett, W. G. Simms, A. H. Stephens, J. Y. Mason, Geo. R. Gilmer, B. F. Porter, A. B. Meek, D. Chandler, and other society orators in Georgia and the sister States; Mysterious Picture, by Judge Clayton.

8. Personal matters: individuals appealing to the public, including the memoir published in 1826 by President Monroe of his claims on the General Government for indemnity while Minister to France, and his recall in 1794 by President Washington. This document opens all the *minutiae* of an envoy's expenses, his labors, sacrifices, effect of show, and other incidents, honestly related in connection with the office.

9. Judicial varieties: impeachment of judges; defence; legislative action; appeals by parties litigant to public opinion; strictures on the courts; divorce-cases in high life, &c.

10. Political fireworks,—and herein of conventions, platforms, cam-

paign-speeches, articles, documents, and the machinery of Presidential elections; pictures of negro voters, wooden-leg soldiers, and Mr. Van Buren in conversation; Ogles's celebrated speech of eighty-eight closely-printed pages, ostensibly about the extravagance at the White House in 1840, but a perfect reservoir of slang, fun, persecution, and party zeal, the most singular, if not infamous, production ever imposed on the country, except the coon-speech of Duncan of Ohio, a twin-brother in filth, illustrated with a variety of cuts,—both preserved as a warning to all future politicians who may desire public respect, living or dead. The number of speeches in Congress, public meetings, and from all quarters and by all sorts of men, is quite voluminous. The talents, information, and taste of men are here exhibited as in a mirror. Big men and little men of both parties figure in this department.

11. Van Buren and the defalcations of the Government, by S. S. Prentiss and other commentators on his life and principles; with a multitude of publications showing up the "Northern Man with Southern Feelings;" the army of 200,000 men, and the Whig attacks on that measure; negro testimony, and divers other sins dressed out for the public eye. All these trophies of the campaign of 1840 are hung out more for public amusement than for approval in 1855.

12. Biographies of candidates: attacks and vindications; party madness, slanders against Mr. Clay collected, especially in the "Star-Spangled Banner," in octavo form, published at Nashville, 1844. Other public men shared the bitterness and injustice evolved in party warfare, as the pamphlets fully prove.

13. The "Crisis" papers,—showing the unhappy state of public affairs since 1828,—the Government expiring every year. Many notes and pitches of this tune, with *conclusive arguments* to justify the prediction. Tables of profit and loss submitted, establishing the result. Under this head the exertions of mind are intense,—systems and men pulled down and built up profusely,—the *ins* and *outs* explaining, reversing, and acting as the ballot-box seemed to preponderate.

14. Eulogies on public benefactors,—including some of the addresses on the death of Adams, Jefferson, and Carroll, and other eminent patriots, the later Presidents, &c. Also public discourses on special occasions,—death of public men, officers of colleges, ministers of the gospel, &c.

15. Texas documents: her Declaration of Independence; names of signers; Constitution; early laws; overtures in 1837 to annex, and rejection by Mr. Van Buren; Mr. Tyler's treaty; various speeches and letters on annexation. Also, diplomacy with Mexico, and war-documents complete.

16. Secret Societies,—Masonic, Odd-Fellows, Sons of Temperance, and other movements of the like kind, as shown by public addresses; with something of the early history of the temperance-reform in Georgia.

17. Narratives and travels in Eastern countries, European sketches, expeditions to Oregon, the Rocky Mountains, sights in California, explorations of South America, national surveys, Pacific Railroad. In this division may be introduced the autobiography of Stilling, counsellor to the Grand Duke of Baden, published by the Harpers in 1844,—one of the best things ever printed.

18. State papers touching many public questions,—army, navy, home squadron, mail-steamers, national academy, internal improvement, public lands, the Indian tribes, foreign relations, northeastern boundary, the Caro-

line, French difficulties, a critical review of Judge Cowen's opinion in the McLeod case, special instructions, &c.

19. Controversial tracts on theology, church government, freedom of opinion; and also a great number of political essays, including Prof. Dew on the abolition of slavery, 1833, reviewing the Virginian debates on that subject soon after the Southampton tragedy. The learned professor examines into the origin and necessity of domestic servitude as it has existed in all ages and countries,—the whole question treated in a liberal, philosophic spirit.

20. Literary exchanges,—chiefly the letters and communications of M. Vattemare to establish a system of international exchanges of books, maps, documents, and productions of art between different countries; foreign criticisms on American institutions, &c.

21. Farmer's library, almanac, and other illustrated pamphlets, representing improved breeds of stock, poultry, new agricultural implements, sundry mechanical inventions, curious machinery for plantation-use, &c. The writings of Skinner, Ruffin, Bucl, Peters, Fitzholdt, Liebig, and others of that high class appear in this collection, in part; also, Thær's Principles of Agriculture,—a profound treatise, embracing first principles and special directions.

22. Scientific researches,—including articles on the coal-fields, geology, mineral deposits, and ancient relics in several States of the Union; analysis of mineral waters; and also addresses and papers on agricultural chemistry, on fossils, sea-shells in the interior, with fragments collected from many quarters, simplifying the universe of matter. Lardner's Lectures, and the "Naturalist," by Dr. Troost, range under this head.

23. Medley papers,—such as McKenzie on Van Buren, Hoyt & Company, Joe Cowell's Thirty Years among the Actors, records of sundry trials, evidence, letters more or less racy touching family disputes made public. The case of the "Six Militia-Men" executed by order of Gen. Jackson (after a court-martial finding them guilty) in 1815, and published in 1828 to injure his election to the Presidency, appears in this collection. The Medley papers consist of a great variety, some very rare and piquant,—sketches of life in the large cities,—with a good deal of Harper's pamphlet literature ten or fifteen years ago.

24. Health Repository,—embracing *speculations* on diseases both of mind and body, verified by cases on the humbug principle, to sell remedies, books, &c. Much that is curious, learned, philosophic, and absurd may be found here, not excepting mesmerism and phrenology.

25. Newspaper-files, reviews, &c., bound into volumes. With the exception of one news-file, the numbers are not regular in all instances. Single papers preserved many years for an important article or communication, or other matter deemed interesting at the time, have been put in the same binding. Some of these include Milledgeville papers thirty years old. The reviews are less broken, though they do not extend so far back.

I have alluded to my success in forming a library on this plan, not to secure any benefit to myself, but to influence others, especially young men, who often obtain pamphlets, and after perusing give them away or permit them to be destroyed. I have lost many in this fashion. Three I particularly regret,—the addresses of Judge Berrien and Clayton before the college societies at Athens in 1828, and the speech of Mr. Wilde on the Tariff in 1832, containing that beautiful sketch of distinguished men

—Lowndes, Pinkney, Randolph, Calhoun, Clay, Webster, Forsyth, Gaston, and others—whom he found in the House of Representatives when he first entered Congress, in 1816. The materials I have drawn together in the fifty volumes are sufficient to construct a history of almost any kind. They are too valuable to remain useless in my hands; and, to make them serviceable to others, I have an idea of presenting them after a while to some literary institution in Georgia, or to some historical society. For the present, I often refer to them for facts and reading which I can procure nowhere else of so entertaining a character.

When I heard of a discourse or other publication which I could not find on sale, or otherwise obtain, I usually wrote to the author, stating my object, and was always treated with civility. My last letter of this description was to the Hon. Rufus Choate, of Boston, and I subjoin a copy to testify my admiration of his great ability. The discourse referred to is one of the noblest in the language. My *objections* to it, and to the sublimity of genius, are made known in the letter, and will be appreciated by all who, like myself, dwindle as a taper in presence of the sun.

—, September 25, 1853.

DEAR SIR:—I have just finished reading, in the *National Intelligencer*, your discourse on Mr. Webster before Dartmouth College. Allow me, a stranger, to express the opinion, everywhere entertained, that your effort has not only vindicated the pre-eminence of the dead, but has secured to yourself a fame which needed no addition to make it second only to that of your illustrious subject in all the elements of character which you so happily brought to public view as constituting his peculiar greatness.

I am glad, yet almost sorry, that you executed the task enjoined on you. By grouping the qualities of Mr. Webster in such masterly connection, you have completed a picture to awe by its magnificence and to discourage even the noblest ambition. For who, after being filled, as I have been to-day, with wonder at the gifts and triumphs alike of the dead and the living, can hope to attract even a passing notice in the temple already occupied by two such colossal figures,—one the subject, and the other the author, of the discourse?

The object of this note is to solicit from you a copy in pamphlet-form for preservation in a bound volume with other addresses on which I set a high value. Excuse the liberty I have taken, and especially for using language which you may consider in bad taste. The fact is, sir, you have bewildered me by the affluence of your intellectual stores; and I claim indulgence on that ground.

With high respect, your obedient servant,

This synopsis of the author's collection of pamphlets was sent in a printed slip to Mr. Choate, who acknowledged it in a very obliging letter *in his own handwriting*,—in other words, in a set of hieroglyphics baffling the best skill in law, medicine, literature, counting-house, and experts in penmanship to decipher. A citizen of Boston travelling South, on being shown the letter, informed the author that no one at home pretended to make out Mr.

Choate's writing but his own office-clerks or private secretary, to whom recourse was had on most occasions.

Several squibs have lately been going the rounds of the newspapers relative to Mr. Choate's penmanship, of which two are here given:—

A **LAWYER'S DISFRANCHISEMENT.**—The *Fitchburg Revere* expresses a fear that Rufus Choate cannot stand the writing-test which it is proposed to incorporate in the Constitution of Massachusetts. It knows of an instance in which a Board of Lyceum-Directors were unable to tell, by the answer of that distinguished gentleman, whether or not he had accepted their invitation to lecture, after a laborious and vain effort to decipher his scrawl.

A lawyer recently attempted to palm himself off as Rufus Choate in a neighboring town. At the suggestion of a printer who was present, the "writing-test" was applied to him. He wrote a legible sentence, and was promptly kicked out of the company.

By the aid of several literary friends, the following *translation* has been resolved upon:—

Boston, 26th January, 1855.

STEPHEN F. MILLER, Esq.

DEAR SIR:—I do not know how your very kind letter lingered so long on the way; but it has only just now arrived, or been seen by me, and I lose not a moment in thanking you for it. Your collection of pamphlets [in fifty bound volumes] is, or one hundred years hence will be, priceless. What would we not give for that innumerable brood which attests the teeming mind and emotions in America from 1783 to 1787? The few in the American Museum are inestimable. Poor *Wilde*! I heard his sketch of the Congress of 1816,—the strongest collection of men since 1789.

I mourn that I also, twenty years ago, did not begin this kind of husbandry; and, indeed, it is one of "the good intentions" which pave the broad and downward road to begin to do it still.

Your kindness toward my eulogy puts me out of countenance. But how much I loved *him* [Webster] no language may express, and how his death has disenchanted the world for me I dare not confess. I beg to send you another copy, and I now send you one to-day.

I am, most truly, your obedient servant,

RUFUS CHOATE.

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